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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1942

No. 827

BETTY BENOIT, APPELLANT

vs.

THE STATE OF MISSISSIPPI

**APPEAL FROM THE SUPREME COURT OF
THE STATE OF MISSISSIPPI**

FILED MAR 15 1943 , 194 .

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Organization of the Court

CIRCUIT COURT, MARION COUNTY, MISSISSIPPI MINUTES, JUNE CRIMINAL TERM, 1942

**THE STATE OF MISSISSIPPI, COUNTY OF MARION
MONDAY MORNING JUNE 15th, 1942**

Be it remembered that was begun and held a regular Criminal term of the Honorable Circuit Court of Marion County, Mississippi, and in the 15th Circuit Court District of the State of Mississippi and in and for the said County of Marion, at the Court House thereof in the city of Columbia, on the third Monday of June, A. D., 1942, the same being the 15th day of said month, and it being the time and place designated by law for the holding of said Court.

There was present at the opening of the said regular term of Court, the Honorable J. C. Shivers, Judge of the 15th Judicial District of Mississippi; Hon. Sebe Dale, District Attorney of said District; Honorable Bernard Callender, County Prosecuting Attorney; O. J. Foxworth, Sheriff of said County; J. O. Tolar, Clerk of said Court, and Mrs. Uhl Poole Fornea, Official Court Reporter of said Court.

The Grand Jurors came into open court and reported the following numbered indictment to-wit: 1826.

The defendant appealed.

**THE STATE OF MISSISSIPPI, COUNTY OF MARION
CIRCUIT COURT, JUNE TERM 1942.**

The Grand Jurors for the State of Mississippi, taken from the body of good and lawful men of said county, elected, empaneled, sworn and charged to inquire in and for the county aforesaid, at the term aforesaid, of the court

aforesaid, in the name and by the authority of the State of Mississippi, upon their oaths present, that

**MRS. VIOLET BABIN
AND
MISS BETTY BENOIT**

in said county, on or about the . . . day of June, 1942, acting together and in conjunction with each other, as individuals and as members of a certain organization or sect commonly known as Jehovah's Witnesses, did then and there wilfully, unlawfully, feloniously, knowingly and intentionally disseminate and distribute certain literature and printed matter designed and calculated and which reasonably tends to create an attitude of stubborn refusal to salute, honor and respect the flag and government of the United States of America, to wit, a certain publication or journal, entitled "Consolation, a Journal of Fact, Hope and Courage", being Vol. XXIII No. 583 of said publication, dated January 21, 1942, published by Watchtower Bible and Tract Society, Inc., which said publication or journal was printed in the English language and contained an article under the caption "Public Opinion in Maine" in the following words, to wit:

"The Supreme Court decision supporting the legality of a Pennsylvania school board rule requiring children to salute the American flag would have been nearer right, nearer sound, if the Court had simply said that that is a matter of State jurisdiction.

"But see what a pitiful mockery of education that salute to the flag is!

"There is probably not one teacher in twenty,—not one teacher in twenty who can give you a comprehensive, adequate definition of what the flag stands for. What that flag salute amounts to is a contemptible, primitive worship. Those people who put such rules into the State law don't know what they are at work on.

"It is probable that not half a dozen members of any

State Legislature can give an adequate definition of what the flag stands for.

"Can any legislator or any teacher give you a better definition of the flag than the emblem of American rights at sea and in foreign lands? That is, that the flag stands for what is precious to Americans outside of America.

"Try another definition. Perhaps this definition is not so good now as it was ten years ago, but say down to ten years ago, the stars and stripes stood for the Supreme Court of the United States.

"As a matter of history it is not too far to say that the Supreme Court of the United States has been the great defender of the American citizen's individual liberty and initiative, of his rights of property, of his right to protection of the laws.

"But the fundamental of that saluting the flag religion is its utter contradiction of good education. What it amounts to is a required worship, worship by the children that don't know what they are worshiping. They never will learn by that kind of tyranny.

"See how much more patriotic it would be if our teachers were given the proper opportunity to help their children to understand the government under which they live. Help them to understand the great principles of the law of the land, the great principles of the common law that the fathers brought over with them when they came from England.

"To help the children to understand what is the law of the land, what are the rights of an American citizen, to understand what police protection they are entitled to, to understand how their rights can be vindicated in the courts. And especially to understand the function of the court, what the court does for the citizen.

"To help the children to understand the duties of government; and how those duties are divided to the city, the State Government, the Federal Government.

"It is good that the Supreme Court of the United States

is not going over the country to tell the States that they can do about the flag.—Lewiston Daily Sun.”

and which said publication or journal also contained an article under the caption “French Catholics Start Flag Salute”, in the following words, to wit:

“A dispatch from Monte Carlo says, ‘The salute to the flag ceremony, now a daily event in all French schools, originated in the Catholic schools of France.’ The type of mind that finds satisfaction in worshipping images would also be most inclined toward emblem worship of various kinds. The item confirms the claim that flag saluting in the United States has covertly been pushed by the Catholic Hierarchy here.”

and which said publication or journal also contained other articles of similar nature, import and purpose, all of which were then and there designed and calculated and which reasonably tends to create an attitude of stubborn refusal to salute, honor and respect the flag and government of the United States, in violation of the statutes in such case made and provided and against the peace and dignity of the State of Mississippi.

BERNARD CALLENDER
County Prosecuting Attorney

(On Back:)

No. 1826

STATE OF MISSISSIPPI
COUNTY OF MARION

June Term 1942.

I N D I C T M E N T

State of Mississippi

v.

Mrs. Violet Babin and

Miss Betty Benoit

Charged with:

Distributing Prohibited Printed Matter

A TRUE BILL:

J. M. Magee

Foreman, Grand Jury

Witnesses:

W. R. Owens

O. J. Foxworth

Filed 22 day of June, 1942.

Recorded 22 day of June, 1942.

J. O. Tolar
Circuit Clerk

-Motion for Severance

**IN THE CIRCUIT COURT OF MARION COUNTY,
MISSISSIPPI, FOR THE FIFTEENTH DISTRICT,
JUNE, 1942 TERM.**

THE STATE OF MISSISSIPPI

v.

MRS. VIOLET BABIN
MISS BETTIE BENOIT

No. 1826

**COME DEFENDANTS, BETTIE BENOIT AND
VIOLET BABIN, BY THEIR ATTORNEY, TO GRANT
THEM SEPARATE TRIALS.**

BETTIE BENOIT
VIOLET BABIN

By G. C. CLARK
Attorney for Defendants

Filed 6/22/42 J. O. Tolar, Clerk

Order Granting Severance

No. 1826
Distributing Prohibited Printed Matter

THE STATE OF MISSISSIPPI

v.
MRS. VIOLET BABIN
MISS BETTY BENOIT

Now comes the defendant's and moves the court for a severance and the court having considered said motion is of the opinion that said motion should be sustained.

It is, hereby ordered and adjudged that said motion is sustained.

Stipulation

IN THE SUPREME COURT OF MISSISSIPPI
No. 35163

BETTIE BENOIT, *Appellant*
STATE OF MISSISSIPPI, *Appellee*

It is agreed between Hayden C. Covington, Attorney for Appellant, and Geo. H. Ethridge, Assistant Attorney General, that on the appeal of this case to the Supreme Court of Mississippi the motion for a continuance and the evidence taken thereon and the order of the court in reference thereto, be deleted from the record and the Clerk of the Supreme Court on filing this agreement seal or bind up the pages 8 to 12 inclusive, containing said motion, and pages 53 to 102 inclusive, containing evidence on said motion, and pages 223 to 232 inclusive, containing copy of exhibit used on said motion, so that the same will not appear or be examined by the Supreme Court of the State nor be copied in the record on appeal from the judgment of

the Supreme Court to the United States Supreme Court by either party should an appeal be taken to the United States Supreme Court.

It is further agreed that the only question to be considered by the Supreme Court of Mississippi and of the United States should the case be carried to that court is the constitutionality of the statute, Chapter 178, Laws of 1942, on its face and as construed and applied; and second, if constitutional, whether the evidence in the record warrants the conviction under the statute, that is to say whether the evidence brings the literature and distribution thereof by the defendant under Chapter 178, Laws of 1942, so as to warrant the conviction.

The purpose of the appeal and the agreement is to have only the above questions presented for decision as briefed and argued by the parties. It is agreed that the indictment is sufficient if the evidence sustains the indictment that it is sufficient to require a proper presentation and disposition of the case and to give proper jurisdiction to the Supreme Court of Mississippi to hear and decide the same case.

WITNESS our signatures this the 18th day of November 1942.

Assistant Attorney General
Attorney for Appellant

Demurrer to Indictment

No. 1826

**IN THE CIRCUIT COURT OF MARION COUNTY,
FIFTEENTH JUDICIAL DISTRICT.****THE STATE OF MISSISSIPPI***v.***BETTIE BENOIT**

Filed 6/22/42

J. O. Tolar,

Circuit Clerk

Now comes the above named defendant in above styled and numbered cause and files this her DEMURRER TO THE INDICTMENT against her and for cause therefor says:

ONE

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session, 1942, deprives the citizens and residents of Mississippi and particularly this defendant of her inherent right of freedom to worship Almighty God according to the dictates of her own conscience, freedom of press and freedom of speech contrary to Sections 13, 14, 18 and 32 of the Mississippi Constitution and the First Amendment to the United States Constitution.

TWO

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session 1942, is unconstitutional because Section 1 thereof deprives the defendant of his inherent right to worship Almighty God according to the dictates of her own conscience, freedom of press and freedom of speech contrary to Sections 13, 14,

18 and 32 of the State of Mississippi and Section 1 of the Fourteenth Amendment to the United States Constitution.

THREE

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session, 1942, is unconstitutional because Section 1 thereof is unreasonable and in excess of the police powers of the State of Mississippi, thereby permitting the denial of liberty without the due process of law, contrary to Section 14, Article 3 of the Mississippi Constitution and Section 1 of the Fourteenth Amendment to the United States Constitution.

FOUR

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session, 1942, is unconstitutional because Section 1 thereof is vague, too general, indefinite and permits speculation on the part of the jury and the court trying the cause, thus constituting a dragnet, both on its face and as construed and applied, all contrary to Section 14 of Article 3 of the Mississippi Constitution and Section 1 of the Fourteenth Amendment to the United States Constitution.

FIVE

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session 1942, is unconstitutional because Section 2 thereof is unreasonable and in excess of the police powers of the State, and is vague, indefinite and a dragnet, in violation of Section 1 of the Fourteenth Amendment to the United States Constitution.

SIX

The statute under which the indictment is drawn, known as House Bill 689, of the Regular Legislative Session, 1942, is unconstitutional because the entire statute denies equal protection of the law and discriminates between classes,

contrary to Section 1 of the Fourteenth Amendment of the United States Constitution.

SEVEN

The indictment against this defendant is too vague, indefinite in that it fails to set out by words, or otherwise the time, place or manner wherein the defendant is charged with willfully, unlawfully, knowingly or feloniously circulating printed matter designed and calculated to encourage disloyalty to the Government of the United States of America and of the State of Mississippi. The indictment is defective and subject to demurrer in that the printed matter charged with having been circulated and distributed, is not made a part of the indictment and the pamphlet form is not attached or made a part of the indictment.

EIGHT

The indictment is too vague, and indefinite in that it fails to allege any specific language, sentence, paragraph, and topic of books, pamphlets or other writings charging the alleged crime of inciting prejudice, hatred or reasonably tend to create an attitude of stubborn refusal to salute, honor or respect the flag and government of the United States or the State of Mississippi.

NINE

If the defendant is forced to go to trial on the indictment as now written, she could not make a proper defense and would be deprived of her rights of liberty under the laws of the State of Mississippi.

TEN

The indictment as written does not charge a crime against the defendant according to the laws of Mississippi and does not properly advise her of the charges against her and is not specific enough and she cannot make a proper defense to said charge for she does not know from the indictment the crime charged against her, and cannot properly defend herself if forced to go to trial and would be deprived of her rights and liberties according to the laws

of Mississippi and of the United States, as provided for in such cases. The indictment charges no crime according to the laws of the state of Mississippi. Indictment is bad, because it fails to charge malice aforethought. Indictment also charges two or more offenses in one count.

WHEREFORE the defendant asks the court that said demurrer be sustained and that said case be held for naught and for any other relief both general and special that the Court may grant.

G. C. CLARK
Attorney for Defendant

State of Mississippi

County of Marion

Comes G. C. Clark, Attorney of record in this cause and states that this demurrer is not filed for delay only, but that he believes that the reasons set out in said demurrer are good and sufficient grounds therefor.

G. C. CLARK
Attorney for Defendant

Sworn to and subscribed before me this the ... day of June, 1942.

J. O. TOLAR
Clerk

SEAL

Order Overruling Demurrer

In the Circuit Court of Marion County, Fifteenth Judicial District, June A. D., 1942 Term.

No. 1826

THE STATE OF MISSISSIPPI
v.
MISS BETTY BENOIT

This Demurrer duly and timely filed by defendant herein, came on for consideration, and the court having heard

argument of counsel thereon, is of the opinion that the same should be overruled.

Accordingly, it is hereby,
ORDERED, ADJUDGED and DECREED that Demurrer is OVERRULLED.

Motion to Quash the Indictment

IN THE CIRCUIT COURT OF MARION COUNTY
MISSISSIPPI, FOR THE 15th DISTRICT,
JUNE, 1942 TERM.

No. 1826

Filed 6/22/42
J. O. Tolar, Clerk

THE STATE OF MISSISSIPPI

v.

VIOLET BABIN
BETTIE BENOIT

Now comes the defendant Bettie Benoit, Violet Babin, in the above styled and numbered cause and files this her MOTION TO QUASH THE INDICTMENT returned and filed herein against her and as grounds therefor says:

ONE

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session, 1942, is void on its face and unconstitutional because Section 1 thereof deprives the citizens and residents of the State of Mississippi and particularly this defendant of her right to worship Almighty God according to the dictates of her own conscience, freedom of press and freedom of speech contrary to Sections 13, 14, 18 and 32 of Constitution of the State of Mississippi and the First Amendment and Section 1 of the Fourteenth Amendment to the United States Constitution.

TWO

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session, 1942, is unconstitutional as construed and applied to the activity of this defendant because Section 1 thereof deprives the defendant of her inherent rights of freedom to worship Almighty God according to the dictates of her own conscience and freedom of press, and freedom of speech, contrary to Sections 13, 14, 18 and 32 of the Constitution of the State of Mississippi and the First Amendment and Section 1 of the Fourteenth Amendment to the United States Constitution.

THREE

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session, 1942, is unconstitutional because Section 1 thereof is unreasonable and in excess of the police powers of the State of Mississippi, thereby permitting the denial of liberty without due process of the law contrary to Section 14 of Article 3 of the Mississippi Constitution and Section 1 of the Fourteenth Amendment to the United States Constitution.

FOUR

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session, 1942, is unconstitutional because Section 1 thereof is vague, too general, indefinite and permits speculation on the part of the jury and the Court trying the cause, thus constituting a dragnet, both on its face and as construed and applied, all contrary to Section 14 of Article 3 of the Mississippi Constitution and Section 1 of the Fourteenth Amendment to the United States Constitution.

FIVE

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session, 1942,

is unconstitutional because Section 2 thereof is unreasonable and in excess of the police powers of the State and is vague, indefinite and a dragnet, in violation of Section 1 of the Fourteenth Amendment to the United States Constitution.

SIX

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session, 1942, is unconstitutional because the entire statute denies the equal protection of the law and discriminates between classes all contrary to Section 1 of the Fourteenth Amendment to the United States Constitution.

SEVEN

The indictment fails to allege any facts or circumstances showing the commission of any public offense or the violation of any law of the State of Mississippi.

EIGHT

The trial Judge erred in charging the grand jury when he used the following language:

"The Country is now in war and the last legislature passes a law to cause everybody to work for and aid our Nation as they should. Don't allow any person to tell you that it is wrong to salute the flag. Any person that would tell another that it was wrong to salute that flag (pointing out a large American Flag on judge's right) is unworthy of the respect of citizens of America, and should leave this Country, for this should be considered Un-American." The Court further erred in re-convening the Grand Jury after dismissal, and in view of the fact that a re-indictment of defendants was made in twenty minutes or less, indictment being in Circuit Clerk's office at 9:20 (Nine twenty) A. M. the same date, and the grand jury failed to re-call the witnesses on which indictment is based.

WHEREFORE defendant prays that the Court upon

the consideration hereof sustain this MOTION TO QUASH THE INDICTMENT, and dismiss the indictment and order the defendant discharged with her costs, and for such other and further relief as she may show herself justly entitled to.

BETTIE BENOIT

By G. C. CLARK
Attorney for defendant

THE STATE OF MISSISSIPPI, COUNTY OF MARION

Personally appeared before me the undersigned authority in and for said State, G. C. Clark, who first being by me duly sworn states on oath that the above is true and correct as stated.

Sworn to and subscribed before me, this the 22 day of June, 1942.

J. O. TOLAR
Clerk

(SEAL)

Order Overruling Motion to Quash

No. 1826

THE STATE OF MISSISSIPPI

v.

MISS BETTY BENOIT

This Motion to Quash duly and timely filed by defendant herein, came on for consideration, and the court having heard argument of counsel thereon, is of the opinion that the same should be overruled. Accordingly, it is hereby ORDERED, ADJUDGED, and DECREED THAT motion to Quash is overruled.

Motion for Peremptory Instruction**No. 1826****IN THE CIRCUIT COURT OF MARION COUNTY
MISSISSIPPI FOR THE 15th JUDICIAL DISTRICT****THE STATE OF MISSISSIPPI****v.****BETTIE BENOIT**

Now comes the above named defendant and in the above styled and numbered cause and files this her MOTION FOR PEREMPTORY INSTRUCTION.

ONE

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session, 1942, is void on its face and unconstitutional because Section 1 thereof deprives the citizens and residents of the State of Mississippi and particularly this defendant of her right of freedom to Worship Almighty God according to the dictates of her own conscience, freedom of press and freedom of speech contrary to Sections 13, 14, 18 and 32 of the Mississippi Constitution and Section 1 of the Fourteenth Amendment to the United States Constitution.

TWO

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session, 1942, is unconstitutional as construed and applied to the activities of this defendant because Section 1 thereof deprives this defendant of inherent rights of freedom to worship Almighty God according to the dictates of her own conscience, freedom of press and freedom of speech, contrary to Sections 13, 14, 18 and 32 of the Constitution of the State of Mississippi and Section 1 of the Fourteenth Amendment to the United States Constitution.

THREE

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session, 1942,

is unconstitutional because Section 1 thereof is unreasonable and in excess of the police powers of the State of Mississippi, thereby permitting the denial of liberty without due process of law contrary to Section 14 of Article 3 of the Mississippi Constitution and Section 1 of the Fourteenth Amendment to the United States Constitution.

FOUR

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session, 1942, is unconstitutional because Section 1 thereof is vague, too general, indefinite and permits speculation on the part of the jury and the Court trying the cause, thus constituting a dragnet, both on its face and as construed and applied, all contrary to Section 14 of Article 3 of the Mississippi Constitution and Section 1 of the Fourteenth Amendment to the United States Constitution.

FIVE

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session, 1942, is unconstitutional because Section 2 thereof is unreasonable and in excess of the police power of the State, and is vague, indefinite and a dragnet, in violation of Section 1 of the Fourteenth Amendment to the United States Constitution.

SIX

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session, 1942, is unconstitutional because the entire statute denies equal protection of the law and discriminates between classes contrary to Section 1 of the Fourteenth Amendment to the United States Constitution.

SEVEN

The indictment fails to allege any facts or circumstances showing the commission of any public offense or the viola-

tion of any law of the State of Mississippi.

EIGHT

The State has wholly failed to offer any evidence whatsoever as to the defendant's guilt and the undisputable evidence shows that the defendant is not guilty of violating any laws of the State of Mississippi and is not guilty of the act charged in the indictment.

WHEREFORE the defendant prays that the Court sustains the motion for peremptory instruction and instruct the jury to acquit the defendant and by their verdict say, "We, the jury find the defendant not guilty", and render a judgment dismissing the indictment and discharging the defendant with her costs, and defendant prays for such other, further and general relief as she may show herself justly entitled to.

G. C. CLARK
Attorney for defendant

Given Instructions for the State

No. 1826

THE STATE OF MISSISSIPPI

v.

MISS BETTY BENOIT

The court instructs the jury for the State that if the jury believe from the evidence beyond a reasonable doubt that the defendant, Miss Betty Benoit, as an individual and as a member of a certain organization or sect commonly known as Jehovah's Witnesses, in Marion County, Mississippi, did wilfully, unlawfully, feloniously, knowingly and intentionally disseminate and distribute certain literature and printed matter designed and calculated and which reasonably tends to create an attitude of stubborn refusal to salute, honor and respect the flag and government of the United States of America, to wit, a certain publication or journal, entitled "Consolation, a Journal of Fact, Hope

and Courage", being Vol. XXIII No. 583 of said publication, dated January 21, 1942, published by Watchtower Bible and Tract Society, Inc., which said publication or journal was printed in the English language and contained an article under the caption "Public Opinion in Maine" in the following words, to wit:

"The Supreme Court decision supporting the legality of a Pennsylvania school board rule requiring children to salute the American flag would have been nearer right, nearer sound, if the Court had simply said that that is a matter of State jurisdiction.

"But see what a pitiful mockery of education that salute to the flag is!

"There is probably not one teacher in twenty,—not one teacher in twenty who can give you a comprehensive, adequate definition of what the flag stands for. What that flag salute rule amounts to is a contemptible, primitive worship. Those people who put such rules into the State law don't know what they are at work on.

"It is probable that not half a dozen members of any State Legislature can give an adequate definition of what the flag stands for.

"Can any legislator or any teacher give you a better definition of the flag than the emblem of American rights at sea and in foreign lands? That is, that the flag stands for what is precious to Americans outside of America.

"Try another definition. Perhaps this definition is not so good now as it was ten years ago, but, say down to ten years ago, the stars and stripes stood for the Supreme Court of the United States.

"As a matter of history it is not too far to say that the Supreme Court of the United States has been the great defender of the American citizen's individual liberty and initiative, of his rights of property, of his right to protection of the laws.

"But the fundamental of that saluting the flag religion is its utter contradiction of good education. What it amounts

3

to is a required worship, worship by the children that don't know what they are worshiping. They never will learn by that kind of tyranny.

"See how much more patriotic it would be if our teachers were given the proper opportunity to help their children to understand the government under which they live. Help them to understand the great principles of the law of the land, the great principles of the common law that the fathers brought over with them when they came from England.

"To help the children to understand what is the law of the land, what are the rights of an American citizen, to understand what police protection they are entitled to, to understand how their rights can be vindicated in the courts. And especially to understand the function of the court, what the court does for the citizen.

"To help the children to understand the duties of government; and how those duties are divided to the city, the State Government, the Federal Government.

"It is good that the Supreme Court of the United States is not going over the country to tell the States what they can do about the flag.—Lewiston Daily Sun."

and which said publication or journal also contained an article under the caption "French Catholics Start Flag Salute", in the following words, to wit:

"A dispatch from Monte Carlo says, 'The salute to the flag ceremony, now a daily event in all French schools, originated in the Catholic schools of France.' The type of mind that finds satisfaction if worshiping images would also be most inclined toward emblem worship of various kinds. The item confirms the claim that flag saluting in the United States has covertly been pushed by the Catholic Hierarchy here."

and if the jury further believe from the evidence beyond a reasonable doubt that said printed matter was then and there designed and calculated and which reasonably tends to create an attitude of stubborn refusal to salute, honor

and respect the flag and government of the United States, then it is the duty of the jury to find the defendant guilty as charged.

Given

GIVEN & FILED

June 23, 1942

J. O. Tolar,
Circuit Clerk

Given Instructions for Defendant

No. 1826

INSTRUCTION 16

The Court instructs the jury for the defendant that:

Jehovah's Witnesses have a right to believe, if they so desire, that to salute the flag is worshiping a symbol or emblem or likeness, and if they decline to salute the flag on this ground, the same would not be in violation of any law as charged under the indictment. To force one to salute the flag contrary to conscientious scruples as result of his faith and belief and contrary to his form of worship, would be in violation of the First and Fourteenth Amendments to the Constitution of the United States; and you cannot consider defendant's refusal to so salute in arriving at your verdict.

Given

GIVEN & FILED

June 23, 1942

J. O. Tolar,
Circuit Clerk

No. 1826 **INSTRUCTION "1"**

The Court instructs the jury for the defendant that:

There is no statute or law of the State of Mississippi which requires an adult person, not in attendance at the

public schools to perform the salute to the American Flag, and in arriving at your verdict you cannot consider the fact that the defendant refused to salute or now refuse to salute the American Flag.

Given

GIVEN & FILED

June 23, 1942

J. O. Tolar,
Circuit Clerk

No. 1826

INSTRUCTION 20

The Court instructs the jury that in reaching your verdict that you must consider as a whole the writings in question and not take out or cull out, phrases, sentences, or clauses, or paragraphs, from their proper settings in the book or literature in question and base your findings on that so culled out.

Given

GIVEN & FILED

June 23, 1942

J. O. Tolar,
Circuit Clerk

No. 1826

INSTRUCTION 18

The Court instructs the jury that it takes twelve jurors all agreeing to bring in a verdict of guilty in a criminal charge. And further instructs the jury that if any one of the jurors have a reasonable doubt of the guilt of the defendant then the verdict of the jury should read, "We the jury cannot agree."

Given

GIVEN & FILED

June 23, 1942

J. O. Tolar,
Circuit Clerk

No. 1826

INSTRUCTION 14

The Court instructs the jury for the defendant that:

The term, "Reasonable doubt" is a doubt which makes you hesitate as to the correctness of the conclusion which you reach. If under your oaths and upon your conscience after you have fully investigated the credible evidence and compared it in all of its parts you can say, "I doubt if she is guilty", then it is a reasonable doubt. It is a doubt which settles in your judgment and finds a resting place there, and which produces in your mind a grave uncertainty as to the verdict to be given.

Given

GIVEN & FILED

June 23, 1942

J. O. Tolar,
Circuit Clerk

No. 1826

INSTRUCTION 11

The Court instructs the jury for the defendant that:

The defendant has a right to worship Almighty God according to the dictates of the heart, to adopt and to hold any opinion whatsoever on the subject of the Bible, and to do any act such as to distribute the literature in question, or to forbear to do any act such as to refuse to salute the flag of the United States, the doing of which does not seriously and immediately endanger the public morals, health and safety.

Given

GIVEN & FILED

June 23, 1942

J. O. Tolar,
Circuit Clerk

No. 1826
INSTRUCTION 22

The Court instructs the Jury for the defendant that the state must prove beyond every reasonable doubt that the defendant did willfully disseminate the literature with the *intent* to create disloyalty to the Government of the United States or of the State of Mississippi or which reasonably tends to create an attitude of stubborn refusal to salute, honor or respect the flag or government of the United States or the State of Mississippi.

Given

GIVEN & FILED
June 23, 1942
J. O. Tolar,
Circuit Clerk

Refused Instructions for Defendant

No. 1826
INSTRUCTION 15

The Court instructs the jury for the defendant that: Freedom of speech and freedom of the press are guaranteed and protected by the Constitutions of the State of Mississippi and of the United States, and this liberty is not confined to newspapers but necessarily embraces pamphlets and leaflets pertaining to matters of government and the Bible. If you find and believe from the evidence or have a reasonable doubt that defendant was engaged in activity of "free press" and "free speech" you will acquit the defendant and you by your verdict will say, "We the jury find the defendant not guilty."

Refused

REFUSED & FILED
June 23, 1942
J. O. Tolar,
Circuit Clerk

No. 1826
INSTRUCTION 4

The Court instructs the jury for the defendant that:

The defendant has a legal right to print, sell, publish, circulate and otherwise distribute literature which attacks any religious principle, dogma, or doctrine, or any political belief, dogma, or doctrine, and to persuade others to their point of view, the defendant may resort to exaggeration, vilification of men who have been or are prominent or low in church and state, and even may resort to false statements for this purpose, because the people through the Constitution have ordained in the light of history, that in spite of excesses and abuses this liberty is essential to enlightened opinion and democracy, and if there is any evidence of such you will not consider it in arriving at your verdict.

Refused

REFUSED & FILED

June 23, 1942

J. O. Tolar

No. 1826
INSTRUCTION "2"

The Court instructs the jury for the defendant that:

Words spoken or printed must be more than a theoretical discussion, and before such can be made the basis of a conviction, you must find from the evidence beyond a reasonable doubt that such words are of such a nature as to create a clear, immediate and present danger that they will bring about the overthrow by force and violence the Constitution, laws and government of the State of Mississippi and the United States, which you must find from the evidence beyond a reasonable doubt to be a clear, immediate and present danger. If you fail so to find or have a reasonable doubt thereof, defendant is entitled to an acquittal.

Refused

REFUSED & FILED

June 23, 1942

J. O. Tolar

No. 1826
INSTRUCTION 3

The Court instructs the jury for the defendant that:
In this country every citizen has the absolute right to distribute literature, freely, and to speak freely upon any subject and thereby express himself and give any opinion concerning any matter without being held answerable therefor to the State of Mississippi, so long as he does not advocate the overthrow of the government, the Constitution and laws thereof, by himself or others, by force and violence, and if you find, or if you have a reasonable doubt thereof, you will acquit defendant.

Refused

REFUSED & FILED
June 23, 1942
J. O. Tolar

No. 1826
INSTRUCTION 7

The Court instructs the jury for the defendant that:
Under Section 13 of Article 3 of the Constitution of the State of Mississippi freedom of press and of speech shall be held sacred, and the State cannot interfere with the exercise thereof so long as the individual does not advocate the overthrow of the government by force and violence.

Refused

REFUSED & FILED
June 23, 1942
J. O. Tolar

No. 1826
INSTRUCTION 6

The Court instructs the jury for the defendant that:
According to Section 6 of Article 3 of the Constitution of the State of Mississippi the people of this State have the inherent right to alter and abolish their form of government when ever they deem it necessary to their safety and

happiness, and every person has the right to advocate a change in the form of government provided that he does not advocate the overthrow thereof by force and violence; and if you find or believe from the evidence, or have a reasonable doubt, that the defendant advocated the establishment in due time God's Kingdom described by the defendant as Jehovah's Theocracy, as foretold in the Bible, and if you find and believe from the evidence, or have a reasonable doubt, that the defendant in advocating the establishment of such Theocracy does not urge a change in the present form of government by force and violence, you will acquit the defendant and by your verdict say: "We the jury find the defendant not guilty."

Refused

REFUSED & FILED

June 23, 1942

J. O. Tolar

No. 1826
INSTRUCTION 5

The Court instructs the jury for the defendant that:

The defendant offered in evidence and contends that she does not advocate or teach orally or in writing not to salute the flag or bear arms in defense of the country, but that she merely declares the commands of Almighty God with reference thereto. If you find and believe that the defendant does not advocate and teach, but merely declares the commands of Almighty God, or if you have a reasonable doubt thereof, you will acquit the defendant.

Refused

REFUSED & FILED

June 23, 1942

J. O. Tolar

No. 1826
INSTRUCTION 8

The Court instructs the jury for the defendant that:

Under Section 18 of Article 3 of the Constitution of the

State of Mississippi each and every inhabitant of the State is granted free enjoyment of all "religious" sentiments and the different modes of worship shall be held sacred and the right thereby secured to every one to worship God according to the dictates of his conscience shall not be interfered with or denied by law unless the exercise thereof is injurious to public morals and dangerous to the peace and safety of the State, from which exercise of the right said danger must be found to be clear, immediate and present and not speculative in any indefinite time in the future. If you believe or find from the evidence, or have a reasonable doubt, that the defendant in the performance of the acts charged in the indictment was exercising her right to worship Almighty God according to the dictates of her conscience in distribution of said literature, and you further find that the exercise of such right does not endanger immediately clearly and presently the peace and safety of the State, then you will acquit the defendant and by your verdict: "We the jury find the defendant not guilty."

Refused

REFUSED & FILED

June 23, 1942

J. O. Tolar

No. 1826

INSTRUCTION 9

The Court instructs the jury for the defendant that:

According to the case of *Ex parte* Milligan decided by the Supreme Court of the United States during the Civil War, reported in 4 Wall. 2, "The Constitution of the United States is a law for *rulers* and people equally in war and peace; it covers with the shield of protection all classes of men at all times and under all circumstances. No doctrine involving more pernicious consequences was ever invented by the mind of man that any of its provisions can be suspended during any of the great exigencies of government.

Such a doctrine leads directly to anarchy and despotism. But the theory of necessity on which it is based is false for the government within the Constitution has all the powers granted to it which are necessary to preserve its existence."

Refused

REFUSED & FILED

June 23, 1942

J. O. Tolar

No. 1826
INSTRUCTION TEN

The Court instructs the jury for the defendant that:

Regardless of how unreasonable, objectionable a particular belief or practice with reference to the laws laid down by the Creator in the Bible may appear to be, to permit the judge or jury to intrude their powers into the field of opinion and to restrain the profession or propagation of principles alleged to be based on the Bible on the supposition of their ill tendency is a dangerous fallacy which destroys all freedom of worship of Almighty God. It is not for you to say that the activity of the defendant is not an act of worship. You must assume that it is and can only convict the defendant for the exercise thereof in this case when you find or believe that they advocate the overthrow of the government by force and violence, clearly, immediately and presently.

Refused

REFUSED & FILED

June 23, 1942

J. O. Tolar

No. 1826
INSTRUCTION 12

The Court instructs the jury for the defendant that:

According to the Constitution of the State of Mississippi no defendant in a criminal case can be convicted for

the crime of sedition or treason except from the mouths of two witnesses other than the defendant herself.

Refused

REFUSED & FILED

June 23, 1942

J. O. Tolar

No. 1826

INSTRUCTION 13

The Court instructs the jury for the defendant that:

Evidence has been offered that defendant takes a position of strict neutrality as to the wars between nations of the world, and because of such position she refuses to participate in any capacity for any nations in such wars. You are specially instructed that such evidence is immaterial to the charge of sedition and should be disregarded and not considered in arriving at your verdict.

Refused

REFUSED & FILED

June 23, 1942

J. O. Tolar

INSTRUCTION 17

No. 1826

The Court instructs the jury for the defendant that:

Defendant and all other Jehovah's Witnesses have a right to call upon the people and to knock on the doors and to ring the doorbell at the homes of the people, and to bring to the attention of the people the recorded word of God, by means of the literature, which they distribute and the phonograph records which are used to reproduce recorded Bible talks; and that to knowingly and willfully endeavor to deprive them each of civil liberties guaranteed under the First and Fourteenth Amendments to the United States Constitution by color of State law would be in violation

of Sections 51 and 52 of Title 18, United States Code Annotated.

Refused

REFUSED & FILED

June 23, 1942

J. O. Tolar

No. 1826

INSTRUCTION 23

The Court instructs the Jury for the defendant that the Jury should bring in this Verdict, "We, the jury, find the defendant, "Not Guilty".

Refused

REFUSED & FILED

June 23, 1942

J. O. Tolar

Testimony

Filed July 17th 1942, J. O. Tolar, Circuit Clerk
IN THE CIRCUIT COURT
MARION COUNTY, STATE OF MISSISSIPPI
No. 1826

THE STATE OF MISSISSIPPI
v.
MISS BETTY BENOIT

Charge: Distributing Prohibited Printed Matter.

APPEARANCES

HON. SEBE DALE, District Attorney,
Columbia, Miss., and HON. BERNARD
CALLENDAR, County Attorney, Co-
lumbia, Miss., Counsel for the STATE
AND
HON. G. C. CLARK, Waynesboro, Miss.,
Counsel for the DEFENDANT.

HON. J. C. SHIVERS, Judge

Mr. O. J. Foxworth, Sheriff

Mr. J. O. Tolar, Clerk

Mrs. Uhl Poole Fornea, Reporter

THE DEFENDANT IS ARRAIGNED AND EN-
TERED A PLEA OF NOT GUILTY.

TRANSCRIPT of the evidence given on the trial of
the foregoing styled and numbered cause before HON.
J. C. SHIVERS, Judge and JURY on the 23rd day of
June, A. D., 1942.

MR. W. R. (Bill) OWENS: being produced and first
duly sworn testified for the STATE as follows, to-wit:

DIRECT EXAMINATION BY MR. DALE:

Q What is your name? A W. R. Owens.

Q Commonly called Bill Owens? A That's right.

Q What official position, if any, do you hold in the City of Columbia? A Chief of Police.

Q Were you Chief of Police during the month of April, 1942? A Yes, sir.

Q As such tell the Court and the Jury whether or not one Sunday afternoon in the month of April, 1942, you went to the home of Annie Felix where it is said there was a meeting being held? A Yes, I did.

Q Where does Annie Felix live?

A North of Town—just north of the Golf Club in Marion County, Mississippi.

Q What day of the week was it on?

A Sunday afternoon.

Q About what time of the month was it?

A Around the middle of April, 1942.

Q When you went to the home where Annie Felix lived, did you see the woman sitting over there, Miss Betty Benoit?

A When I went there first I didn't see them but I made two trips down there.

Q When you went the second time she was there?

A Yes.

Q Was the other woman, Mrs. Violet Babin, there when you went the second time? A Yes, sir.

Q That was the other woman sitting over there awhile ago? A Yes.

Q In going to that home, tell whether or not you made any effort to see what literature they had or get any from them? A I did.

Q Mr. Owens, I hand you a book—

BY MR. CLARK: We object to that.

Q —I hand you a book and I want you to tell the Court and the Jury whether or not that book was obtained that afternoon at that place while the Defendant there and the other woman, Mrs. Violet Babin, were present?

BY MR. CLARK: We object unless the whole magazine is read into the record.

BY THE COURT: He couldn't do it until it is identified.
OVERRULED

BY MR. CLARK: We except.

Q Tell whether or not you obtained that magazine you have in your hand now there that afternoon? A I did.

Q Tell the Court and the Jury whether or not this woman, Miss Betty Benoit, was present at that time?

A Yes, sir.

Q Tell whether or not she and the other woman told you they were issuing that literature and putting it out?

A Yes, sir.

Q What is the name of that magazine?

A "Consolation. A Journal of Fact, Hope, and Courage."

Q What is the volume number of that?

A Volume No. 23, No. 583.

Q What is the date of it? A January 21st, 1942.

Q All right, by whom is it published as shown in the Editorial Section?

A The Watch Tower Bible and Tract Society, Inc., Brooklyn, N. Y.

Q And you obtained that there that afternoon?

A I did.

Q Tell whether or not the Defendant, Betty Benoit, and Mrs. Babin—they are indicted jointly—told you it was their literature and they were putting it out and using it?

A Yes, sir.

Q Were other people there that afternoon?

A Annie Felix and two girls.

Q Colored girls?

A Yes, and Mr. Yearwood, another Policeman for the City of Columbia, and Mr. Aubry Goldman, a taxi driver, were with me.

Q What did you do with all the other literature you got?

A Burned it up.

Q And you kept that which you obtained that day?

A Yes, sir.

Q I WANT TO INTRODUCE THIS BOOK AS EX-

HIBIT A TO MR. OWENS' TESTIMONY FOR THE STATE.

BY MR. CLARK: We object unless it is read by the witness.

BY THE COURT: OVERRULED.

BY MR. CLARK: We except.

Q Mr. Owens, take the pamphlet now and turn to page 9—

BY MR. CLARK: We object unless he starts at the beginning and reads it all the way through.

BY THE COURT: It is in evidence; it can be read.

BY MR. CLARK: We object unless it is read by the witness now on the stand from beginning to the end.

BY THE COURT: OVERRULED. BY MR. CLARK: We except.

Q Turn to page 9 and read the excerpt beginning there down to the place where it is marked, which is as set out in the indictment.

BY MR. CLARK: We object unless the Court gives the witness time to read it all in the record from beginning to end.

BY THE COURT: OVERRULED. That is a matter which the District Attorney controls; if he doesn't read it all, you can do it.

BY MR. CLARK: I am asking that one of the State's witnesses be allowed to read it, if the Court please. I don't want to be burdened with reading that entire book myself.

BY THE COURT: You can read it to the Jury, or have it read if you want to.

BY MR. CLARK: But I want it read by a witness into this record.

BY THE COURT: I've already said you could do it, Mr. Clark.

Q Read that part I designated, Mr. Owens:

A "PUBLIC OPINION IN MAINE.

The Supreme Court decision supporting the legality of a Pennsylvania school board rule requiring children to salute

the American flag would have been nearer right, nearer sound, if the Court had simply said that that is a matter of State jurisdiction.

But see what a pitiful mockery of education that salute to the flag is!

There is probably not one teacher in twenty,—not one teacher in twenty who can give you a comprehensive, adequate definition of what the flag stands for. What that flag salute rule amounts to is a contemptible, primitive worship. Those people who put such rules into the State law don't know what they are at work on.

It is probable that not half a dozen members of any State Legislature can give an adequate definition of what the flag stands for.

Can any legislator or any teacher give you a better definition of the flag than the emblem of American rights at sea and in foreign lands? That is, that the flag stands for what is precious to Americans outside of America.

Try another definition. Perhaps this definition is not so good now as it was ten years ago, but, say down to ten years ago, the stars and stripes stood for the Supreme Court of the United States.

As a matter of history it is not too far to say that the Supreme Court of the United States has been the great defender of the American citizen's individual liberty and initiative, of his rights of property, of his right to protection of the laws.

But the fundamental of that saluting the flag religion is its utter contradiction of good education. What it amounts to is a required worship, worship by the children that don't know what they are worshiping. They never will learn by that kind of tyranny.

See how much more patriotic it would be if our teachers were given the proper opportunity to help their children to understand the government under which they live. Help them to understand the great principles of the law of the

land, the great principles of the common law that the fathers brought over with them when they came from England.

To help the children to understand what is the law of the land, what are the rights of an American citizen, to understand what police protection they are entitled to, to understand how their rights can be vindicated in the courts. And especially to understand the function of the court, what the court does for the citizen.

To help the children to understand the duties of government; and how those duties are divided to the city, the State Government, the Federal Government.

It is good that the Supreme Court of the United States is not going over the Country to tell the States what they can do about the flag."

Q What page of the book did that begin on?

A Page 9.

Q And extended to part of page 10? A Yes, sir.

Q And that is read from the same book you identified as having got at Annie Felix's? A Yes, sir.

Q Turn to page 24; there is a small article there I want you to read.

A "FRENCH CATHOLICS START FLAG SALUTE. A dispatch from Monte Carlo says, "The 'salute to the flag' ceremony, now a daily event in all French schools, originated in the Catholic schools of France." The type of mind that finds satisfaction in worshiping images would also be most inclined toward emblem worship of various kinds. The item confirms the claim that flag saluting in the United States has covertly been pushed by the Catholic Hierarchy here."

Q That is quoted as an article from a Monte Carlo Dispatch? A Yes, sir.

Q And it is quoted in the very book you identified as having gotten that Sunday afternoon from these people?

A Yes, sir.

Q What County and State did you obtain that book in from those people?

A Marion County, State of Mississippi.

Q And you say that was about the middle of April, 1942?

A Yes, sir.

Q WE NOW OFFER THAT BOOK, and those two articles which Mr. Owens read and set out in the indictment, AS EXHIBIT A TO MR. OWENS' TESTIMONY. We offer the book generally for the consideration of any and all parts of it that the defense wants to use. He has the privilege of introducing all parts as it is now before the Court in evidence.

Q Annie Felix was present that afternoon, wasn't she?

A Yes, she was present.

Q You may take the witness.

CROSS EXAMINATION BY MR. CLARK:

Q Mr. Owens, are you a Christian?

A Well, I wouldn't say that I am, to tell the truth about it.

Q Do you belong to any Church?

A I wouldn't say that I am a converted Christian.

Q Do you belong to any Church?

A Yes, the Methodist Church.

Q How long have you known of Jehovah's witnesses?

A Possibly I have been hearing of them for four or five years.

Q Did you ever read any of their literature?

A I have.

Q Did you read all of that book?

A Not the entire book, but most of it.

Q Where did you see Miss Betty Benoit first?

A I saw her first going across the Golf Course north of Columbia.

Q Was she with Mrs. Babin?

A They were together, yes, sir.

Q Was she handing out magazines to the people at

that time? A Not at that time.

Q When did you first see this particular magazine?

A Over at this negro's house.

Q Where did you pick it up?

A I don't remember whether I got it from the colored woman or whether I got it from Mrs. Babin and Miss Benoit; I don't remember about that.

Q At that time did you notice the particular number and volume number on that particular one at the time you picked it up? A Yes.

Q What volume and number do you say it was?

A It is here—I told you one time.

Q Have you seen any other copies of that particular magazine? A Yes, many of them.

Q Did you find many of them there that afternoon?

A A good many, yes.

Q Were there any more of that particular issue?

A I couldn't say about that.

Q Why did you read the two articles mentioned in this particular case?

A Mr. Dale asked me to read them.

Q Was that after you came back down here—was Mr. Dale with you there? A That day?

Q Out at Annie Felix's?

A No; Mr. Yearwood and Mr. Goldman were out there with me.

Q Did they get the magazine, or did you get it?

A I got it myself.

Q Did you find anything else wrong with the magazine? Is it your opinion that what else you read is allright or not?

A Some of it is allright and some I don't think is allright.

Q I mean so far as the Government is concerned?

A I told you what I thought about it. I can't tell you what the Government thinks about it.

Q What other items do you think is wrong in there?

A I don't know whether I could point out any particular item.

Q Did this defendant, Miss Betty Benoit, ever sell or hand you that particular kind of magazine?

A No, sir, she didn't give me anything.

Q You don't know whether she distributed any magazines here in Columbia or not, do you?

A Yes, sir, she did.

Q I mean of that issue.

A I couldn't say about that particular issue.

Q Did you know that hundreds of thousands of those magazines are mailed to subscribers over the entire nation?

A I've heard that.

Q You wouldn't swear that magazine was not mailed to a subscriber here, would you?

A Annie Felix said they gave her this one.

Q THAT IS HEARSAY AND WE OBJECT TO IT.

A Well, you asked me.

Q That's all you know about it—what you heard?

A Yes.

Q Of your own personal knowledge you don't know where that magazine came from, do you?

A Yes, sir, I do know where it came from.

Q I mean how it got to Annie Felix's—you don't know that of your own personal knowledge, do you? A No, sir.

Q Mr. Owens, you threatened Annie Felix there that day, didn't you, and told her she'd better get rid of that stuff?

A No, sir, I told her I was going to get rid of it myself.

Q Didn't you tell her she'd better not be found there with any more of that stuff in her home?

A If I did I don't remember it because I told her and this woman a good bit there that afternoon.

Q You wouldn't say you didn't tell Annie that/that afternoon, would you?

A I just don't remember; I wouldn't say I did or didn't.

Q Who first complained to you about this literature causing a stubborn refusal to salute the flag?

A There was so many that I couldn't attempt to say

who all they were.

Q Name some of them.

A All over Town people called me about this thing and—

Q Well, mention three or four.

A Mrs. Hart, Mrs. Nell Ford, Mrs. Geo. Leatherberry, Mrs. Froman—Oh, I could go on for an hour, there were so many. It got monotonous they called me so much about these people.

Q Did they tell you those girls were against the Government? A They seemed to think that.

Q They didn't tell you positively that? A No.

Q They asked you to investigate, did they?

A They did.

Q There was a question in their minds as to whether they were loyal or dis-loyal to the Government, and asked you to see about it, is that it? A Yes, sir.

Q Did any of the men mention it to you and tell you to look into this matter? A Yes, sir.

Q Mention some of them.

A The Mayor, Mr. Rawls, Mr. Flanders, the Secretary of the Chamber of Commerce, Mr. Callendar, and Mr. Dale over there. I guess I got, oh—well, I guess I could name I don't know how many, but the best people we have in our Town,—the ones I consider the best anyway.

Q Name some more of them—I mean men.

A I was asked by Mr. Tom Pope about it. It is like I said, there was so many that asked me about it and reported them to me I can't name all of them.

Q You can't think of any more right now—I mean men.

A Not right now.

Q Did those men tell you this woman was against the Government?

A They thought they were. They didn't like their teachings.

Q What particular phase of their teaching did they mention to you that made you feel like they might not be alright?

A They thought these people were not loyal to the Government because they wouldn't salute the Flag and their literature taught conscientious objection and wouldn't fight for the Country in the time of trouble.

Q Did they tell you they wouldn't fight?

A They told me that themselves.

Q Those parties told you that? A Which ones?

Q I mean the ones that complained to you?

A Oh, no; the girls told me that. Those parties I named were asking me to investigate the people and do something about it.

Q The girls told you their literature taught that, Mr. Owens?

A That is what they said they stood for. They told me and the Sheriff that, and Mr. Jack Anderson.

Q They didn't tell you the literature said that?

A No, they said that themselves.

Q Did any of the people that complained to you, tell you they had read any of the literature and that it was against the Government?

A They didn't tell me that. They brought me some of the literature though and gave it to me, but I'd already seen it.

Q They had lots of literature and you got some of it in your possession; is that right?

A Yes; I had this and one or two more sheets in my possession.

Q Do you know anybody else that has a copy of this particular volume 583? A I couldn't say.

Q This is the January 21st, 1942 issue?

A That's right.

Q The articles in here were quoted in this magazine before the State of Mississippi, or any other State, had a law of this kind, weren't they?

A I couldn't tell you about that.

Q You know this law was passed in the Legislature since January, don't you?

A I don't know just when it was passed.

Q You read this article here and the last words shows it was quoted from the Lewiston Daily Sun, doesn't it?

A I don't remember. On this particular article it says, "to be continued."

Q Doesn't it say it is quoted from a dispatch from Monte Carlo? A Yes, I read that in the beginning.

Q That article appearing on page 9, what are the last words down there?

A That says quoted from "Lewiston Daily Sun."

Q Every word of that article is a quotation from the Lewiston Daily Sun and re-quoted in Consolation, isn't it?

A Yes, sir.

Q And as you contend, distributed in this Town by Miss Betty Benoit? A That's right.

Q You said awhile ago you didn't know that she distributed it, didn't you?

A Only what they said about it.

Q Did either one of those women tell you Miss Betty Benoit distributed this particular magazine?

A They said they were doing it. I asked them if they were and they said they were.

Q Did they tell you they were distributing Consolation No. 583, Vol. 23 of the January 21st, 1942 issue?

A No, they didn't tell me that. I only got that from them that afternoon.

Q How many people do you know that read a magazine of this issue in Town?

A I don't know that anybody did.

Q Has anybody told you the reading of this issue, or any other issue, of this Magazine, made them not want to salute the flag? A No, sir.

Q Or made them dis-loyal to the Government?

A No, sir.

Q Has anybody told you this literature tended to teach them dis-loyalty to the Government?

A They didn't say it taught them that.

Q Do you love the Government any less by reading out of this magazine awhile ago?

BY MR. CALLENDAR: That is outside of the question here, if the Court please, and we object to it.

Q It will prove whether or not it was intended to do any wrong, IF THE COURT PLEASE.

BY THE COURT: I don't think that would have anything to do with this—the paper speaks for itself anyway.

Q When you read this article did you feel like you didn't want to salute the Flag?

A No, sir; nothing in the world would make me feel that way—nothing.

Q Do you respect the Flag any less after reading it?

A No, sir, I respect it more after reading it.

Q Did anybody who read this magazine tell you they think any less of the Government? A No.

Q Do you think any less of the Government since reading it? A No, sir.

Q In this 32 page magazine, will you tell me whether or not any of the items mentioned in the indictment are the main items, or are they the smaller items?

A I couldn't tell you that.

Q What is the main item?

A "Acts of The Theocracy in New England."

Q That is in Two parts, isn't it?

A Yes; it says: "In Two parts—Part I".

Q Read the first paragraph of that article.

A "The field experiences of one of Jehovah's witnesses who lived in New England three hundred years ago will be of absorbing interest to all lovers of liberty at this time. Judge Rutherford, in his memorable address at Detroit, July 28, 1940, said—

Q Read the next two paragraphs please sir.

A "Men who loved God and righteousness, and who refused to yield to religious tyrants and to bow down to and worship creatures, or things, laid the foundation of the

American REPUBLIC. They caused to be written into the fundamental law that all men have the inalienable right to worship God according to the dictates of their conscience." Roger Williams lived in times when religion and state were united both in Europe and in America. In his day it was considered treasonable to advocate and work for their separation. Religious persecution continued soon after his arrival in Boston, in 1631. The Puritans had preceded him and had become the established religion of the New England Colonies. He later found a liberal group at Salem, Massachusetts, with whom he sought to preach the light of truth according to the 'rockie convictions' and enlightened conscience with which he was blessed at that time."

Q That was what Judge Rutherford said with reference to Roger Williams, a Baptist preacher persecuted at that time, isn't it? A That is what it says.

Q Judge Rutherford called him "One of Jehovah's witnesses 300 years ago", didn't he?

A That is in there, yes, sir.

Q Mr. Owens, tell the Court and the Jury whether or not you know Miss Betty Benoit, or for that matter, Mrs. Babin who is jointly indicted here, put that magazine out among the people here?

A Only what they said; they said they were distributing that literature.

Q That's all.

REDIRECT EXAMINATION BY MR. DALE:

Q Tell whether or not you had that particular volume there in your possession when they told you they were putting it out? A Yes, sir.

Q That's all.

(WITNESS DISMISSED)

ANNIE FELIX (colored) being produced and first duly sworn testified for the STATE as follows, to-wit:

DIRECT EXAMINATION BY MR. DALE:

Q You are Annie Felix?

A Yes, sir.

Q Annie, do you remember the Sunday that Mr. Bill Owens came to your home and got the literature and stuff you had there? A Yes, sir.

Q When was that, if you remember?

A Along about the 12th of April, I think.

Q Was this woman sitting over there at your home when Mr. Owens came there and picked up the literature?

A Yes, sir.

Q Tell the Court and the Jury whether or not anybody brought any literature there to your house except those women? A Nobody except them.

Q What literature was there at your house those women brought there?

A What I had there they brought it, yes, sir.

Q That's all.

CROSS EXAMINATION BY MR. CLARK:

Q Annie, do you mean to say you are not a subscriber of Consolation?

A I am a subscriber for it but at that time I didn't have the January Consolation.

Q Isn't it a fact that was after January that he got in your trunk and got that magazine there?

A No, sir, he got it off of the table.

Q Didn't he go in your trunk and get literature and burn it? A It was around on the table.

Q It was your literature, wasn't it?

A That what he got?

Q Yes.

A Yes, sir, it was what they placed with me.

Q Isn't it a fact you got those magazines through the mail—I mean that very issue of Consolation?

A No, sir, I didn't get it through the mail. My subscription had expired at that time.

Q It had expired? A Yes, sir.

Q Annie, when you read that magazine, did it make you want to be against the Government? A No, sir, it didn't.

Q Did you feel less love for your Country when you read the magazine? A No, sir.

Q Will you read starting there where Mr. Owens left off and reading a paragraph?

A I can't read very good.

BY MR. DALE: I'll read it for you.

Q No, I want her to read it.

A I'll try.

"Acts of The Theocracy in New England. In Two parts, —Part I.

Q Start at the 4th paragraph and read, Annie.

A "The Pilgrims and Pilgrim clergy there soon stirred up severe opposition to him. These religionists conspired to rid the country of all men 'who obeyed not the inexorable will of God', not as each individual understood it, but as the established religionists interpreted it.

Persecutions nearly equal to the Inquisition in cruel tortures were practiced. Williams was arrested and brought to trial charged with entertaining 'dangerous opinions.' No lawyer dared to defend him. He stood alone and made his own defense against the hostile court. The Bay Governor, twenty-five court magistrates, the deputy sheriffs, and all the clergy of the colony were present."

Q That's enough. What is the number of that magazine?

A No. 583.

Q Do you—will you swear which one of those girls gave that magazine to you? A Miss Violet.

Q That's all.

RE-DIRECT EXAMINATION BY MR. DALE:

Q Was the other girl present when she gave it to you?

A They came there together.

Q For the sake of the record, Annie, you are of the colored race, aren't you? A Yes, sir.

Q That's all.

RE-CROSS EXAMINATION BY MR. CLARK:

Q Since he mentioned that; these ladies are charged with creating racial distrust; did anything they said, by their acts or doings, tend to make you dislike the white people? A No, sir.

Q Did that tend to make you be against the Government?

A No, sir.

Q Are they against the Government, Annie?

A No, sir—

BY MR. DALE: We object to that, if the Court please.

A —they are not against the Government.

BY THE COURT: Sustained.

(WITNESS DISMISSED)

(STATE RESTS IN CHIEF)

BY MR. CLARK: I want to recall Annie Felix for further cross examination if the Court please.

ANNIE FELIX (colored) being recalled to the witness stand testified on FURTHER CROSS EXAMINATION as follows, to-wit:

FURTHER CROSS EXAMINATION BY MR. CLARK:

Q I forgot to ask you something awhile ago, Annie; what was the number of the magazine you said Mrs. Violet Babin handed you?

A 5—583, I think it was.

Q 583? A If I'm not mistaken, yes, sir.

Q Did you know that was the number of it at the time she gave it to you?

A Not right at the time she gave it to me.

Q When did you find out? A When I began reading it.

Q Did you read it that very afternoon that she gave it to you? A No, sir, not that afternoon.

Q When did you read it?

A In the next day or two when I had time to read it.

Q Had you read it all before Mr. Owens got it?

A I hadn't completed it.

Q Had you read some of it? A Yes, sir.

Q Is this an exact—is this the exact magazine that he got that day?

A Yes, sir, that's the one he got that was lying on the table.

Q Did Mrs. Violet Babin give you this magazine that day, or sometime after that?

A She didn't give it to me that day.

Q Had she been there at your home before that time?

A Yes, sir.

Q Do you know how many times?

A Just one time before that Sunday.

Q Did she ever come back after that time?

A She come back one time.

Q Did she give you any other literature besides this?

A No, sir, just that one, and one or two magazines he burned up. He burned up some of them.

Q Did he burn them right then?

A He burned them up that Sunday evening.

Q Right after he got them? A Yes, sir.

Q Do you know Mr. Hornsby? A Yes, sir.

Q Didn't Mr. Hornsby send you some of those magazines and some of this literature back in the winter?

A He sent me some but he didn't send me that one.

Q Do you know positively that he didn't send you this one? A I want to be positive about it.

Q Do you know that this is the one Mrs. Babin gave you? Be positive about it. You want to be positive, don't you? A Yes, sir, I want to be positive.

Q Are you sure Mr. Hornsby didn't send you that one, Annie?

A I don't remember him sending me this one.

Q That is the January issue, isn't it? A Yes, sir.

Q This was given to you at what time—I mean what time did Mrs. Babin give you this January issue?

A On Thursday, I think; they were just some old ones she had and give me.

Q How many did she give to you that day that she gave you this one? A Two or three others.

Q What numbers were they?

A I didn't notice the number of them.

Q What title were they?

A One or two were Watch Tower magazines and then this Consolation.

Q What was the main title of the others besides the Consolation? A I don't know the title of them.

Q What is the article in this one that you know it by?

A By William Rogers—about him.

Q Didn't you read about Roger Williams awhile ago?

A Yes, sir, I read about William Rogers—I mean Roger Williams—awhile ago.

Q What other article do you know besides the one about Roger Williams?

A I can't think because it has been so long.

Q How do you know this is the exact magazine?

A By the number.

Q That is the only way you do know it, is it?

A Yes, sir.

Q You examined that number that day, did you?

A Sir!

Q I say, you had examined that number that day, had you? A When I looked on the front page of it I saw it.

Q Is that where you found the number?

A Yes, sir.

Q What was the number of the other magazines she gave you that day—the other Consolation?

A I didn't notice that number.

Q But you did notice this number? A Yes, sir.

Q Did she ever teach you any dis-respect to the Flag?

A No, sir.

Q Or did she ever teach you any dis-respect to the Government of this Country? A No, sir.

Q By reading that, did that teach you dis-respect to the Flag or the Government of this Country?

A No, sir.

Q Do you love this Government? A Yes, sir.

Q And you want it to continue until the Theocracy comes, don't you?

A Yes, until the Theocracy comes.

Q Do you want Hitler to win this war? A No, sir.

BY MR. DALE: We object to that, if the Court please.

BY THE COURT: SUSTAINED.

Q Do you know that this is the same magazine the Chief of Police got at your home? A Yes, sir.

Q You know that is identically the same one?

A Yes, sir, he got it there.

Q That very one? A Yes, sir.

Q What marks are on it that makes you know it from any other? A It is about the Theocracy.

Q Don't some of the rest have that word on them?

A Yes, sir, but this one had part No. 1 in it.

Q Are you sure Part No. 1 is in there?

A Yes, sir, I read it.

Q You don't know whether it is part No. 1 or part No. 2, do you? A It is part No. 1—I know it is one of them.

Q It is either part No. 1 or part No. 2 of the Acts of the Theocracy? A Yes, sir.

Q But you don't know which one, do you?

A Part No. 1.

A It is part No. 1.

Q Where is Part No. 1 found at?

A On the front page.

Q You read that part No. 1 awhile ago, didn't you? I

had you to read that, didn't I? A I read it.

Q What is the next article in here besides Part No. 1 of the Acts of the Theocracy?

A I don't know. I read it through but—

Q Are there any pictures in here? A Yes, sir.

Q Pictures of what? A Of the Kingdom Publishers.

Q They are in almost all of them, aren't they?

A Yes, sir.

Q Do you remember the picture of any particular Kingdom publishers? A No, sir.

Q Are there any other pictures in here that you remember besides that? A No, sir.

Q And is there any other article in here you remember besides part No. 1 of the Acts of the Theocracy?

A I read another one about a January 8th article.

Q What was that?

A One of the publishers had ceased.

Q You mean deceased, or died? A Yes, sir.

Q What else did you read in here?

A I didn't complete it.

Q Did you read this article "Manila Reports Fifth Columnists. By United Press: Manila, Dec. 11.—The Bulletin reported today that two Catholic priests had been arrested at San Fernando, in Pampanga province, for asserted fifth column activities in the zone of Japanese invasion attempts. The Bulletin asserted that in Manila a signal line between Nichols Flying Field and an air raid tower was cut, supposedly by fifth columnists, and delayed the alarm when the Japs raided the Manila Bay area yesterday. Air Raid Chief Warden, Alfredo G. Eugenio, issued detailed instructions to the public for procedure in event of gas attacks."

Did you read that article?

A I remember reading it now since you read it over.

Q Did you read that before Mr. Owens got it, or afterwards? A Before he got it.

Q How many days before he got it?

A I don't know about that exactly.

Q Do you know how long you'd had this magazine before Mr. Owens got it?

A It was about three or four days, something like that I think.

Q You know this is the magazine Mr. Owens got?

A Yes, sir, that is the one.

Q What mark was on it by which you can identify it?

A "The Acts of the Theocracy in New England". All of that was on there.

Q Do you know that there are thousands of these same copies that come out? A Yes, sir.

Q Just like that one? A Yes, sir.

Q Yet you swear that's the exact magazine Mr. Owens got at your home on that Sunday afternoon?

A He didn't get it from any other place except there.

Q How do you know he didn't?

A I don't think there was anybody else that had one like that—not up that way.

Q You'd swear to this Jury, would you, that nobody else in Columbia has a magazine like that except you?

A I didn't say that. I don't know anybody up there that had one but me.

Q Will you swear that is the magazine, Annie?

BY MR. CALLENDAR: We object to that because he has been over it repeatedly.

BY THE COURT: SUSTAINED.

Q When did you see that magazine next after Mr. Owens got it from your home? A Not until last night.

Q Yet you undertake to say that's the same magazine. It isn't marked anywhere especially. Is your name on it anywhere?

A No, sir. Anyway, I know I had one just like it.

Q Would you undertake to say it might not be the same magazine? A Well, I'll say it is.

Q What do you say about it, Annie?

A I'll say there is so many of them alike—I couldn't swear this was the one, but I know he got one off of my

table just exactly like this one.

Q Who put it on your table?

A After she give it to me I had all of them on the table.

Q How many did you have on the table?

A I had some other booklets too.

Q And just one like this one?

A Yes, sir, and the other ones were Watch Towers.

Q You had no more Consolations except this one?

A If I did he burned them up.

Q He might have burned up the one he got off your table, mightn't he?

A He could have burned them, but he saved this one out.

Q How do you know? A He said—

Q Oh, he said he got it from your table, did he?

A Yes, sir.

Q And you believe what he said about it, is that right?

BY MR. DALE: We object to that, if the Court please.

A I know it is the same one.

BY MR. DALE: That's been over a dozen times, if the Court please, and we object to it for that reason.

BY THE COURT: Sustained.

Q Do you know why he kept that one? Did he read all of them that afternoon before he burned them?

A No, sir.

Q Well, why did he burn all of them except that one?

A I don't know why he done it.

Q How long was it before he started burning them after he got there? A As soon as he got them out there.

Q And yet he kept that one out?

A Yes, sir, he kept that one out.

Q You say this girl, Miss Benoit, didn't give you this magazine?

A No, sir, she didn't give it to me. Miss Violet give it to me.

Q That's all.

RE-DIRECT EXAMINATION BY MR. DALE:

Q This girl and the other girl came there together when you were given the magazine, didn't they? A Yes, sir.

Q That's all.

(WITNESS DISMISSED)
(JURY RETIRES)

BY MR. CLARK:

Comes the Defendant, Miss Betty Benoit, and prays the Court to sustain a motion for a peremptory instruction and instruct the Jury to acquit the Defendant and by their verdict say:

"We, the Jury, find the Defendant not guilty". and render a judgment dismissing the indictment and discharging the Defendant; and further prays that the evidence introduced by the State be stricken from the record; and for such other further and general relief that she may show herself justly entitled to.

BY THE COURT: Overruled.

BY MR. CLARK: We except.

(JURY RETURNS)

MASTER GENE CLARK: being produced and first duly sworn testified for the DEFENDANT as follows, to-wit:

DIRECT EXAMINATION BY MR. CLARK:

Q You are my son, are you?

A Yes, sir.

Q I want you to begin at this paragraph in this book and read until I stop you.

A "The Pilgrims and Pilgrim clergy there soon stirred up severe opposition to him. These religionists conspired to rid the country of all men "who obeyed not the inexorable will of God," not as each individual understood it, but as the established religionists interpreted it.

Persecutions nearly equal to the Inquisition in cruel tortures were practiced. Williams was arrested and brought to trial charged with entertaining "dangerous opinions". No lawyer dared to defend him. He stood alone and made his own defense against the hostile court. The Bay Governor, twenty-five court magistrates, the deputy sheriffs, and all the clergy of the colony were present. Longacre describes it as the most spectacular assembly and trial, and the most far-reaching in its results, that ever convened in America aside from the Continental Congress of 1776, which was made possible only by the courageous stand of Roger Williams at this eventful trial. His eloquent plea and "testimony against them" lasting many hours succeeded in forcing a division between the magistrates and the deputies—but the clergy got busy.

They lobbied amongst those who showed signs of agreeing with him, and thus influenced those present to bring about his conviction. Though worn and fatigued through hours of grilling, he firmly maintained his integrity. He faced the court and said, "I shall be ready not only to be bound and banished, but to die also, in New England for the truth." He pointed out to the court that he recognized only Jehovah as the one supreme God, and that the civil authorities have no jurisdiction over the conscience on religious matters, and that the civil government had a right to function "in civil matters only." Thus he pioneered the way for the separation of religion and state in America.

The burden of his message was that all men should be free to worship or not to worship according to the dictates of their own conscience. The court ordered Williams banished. He was denounced as "a rebel against the divine Church order." He bade goodbye to his beloved wife and child at mid-night and fled into the wilderness. He faced a cold and wintry blast and a blinding snow-storm. Later, of his experience he wrote to a friend, "I was unmercifully driven from my chamber to the winter's flight, exposed to the miseries, poverty, necessities, wants, debts, hardships of

sea and land in a banished condition. I was sorely tossed for fourteen weeks in a bitter winter season, not knowing what bread and bed did mean, without bow or arrow, spear or club, hatchet, or gun, where no white man has ever trod, eating roots and nuts and acorns where I could find them until I reached the wigwams of the savage Narragansett tribe of Indians." There he found refuge and shelter. A real pioneer. A fugitive from injustice and religious persecution. His great love and kindness won the good-will of those savage elements and awakened their sympathies. He prospered, and established the republic of Rhode Island. The little republic became the wonder and admiration of the world and the haven of the oppressed of all lands. The Puritans later, fearing his rise to power, sought to arrange a compromise with him; but to this he replied by messenger: "I feel safer down here among the Christian savages along Narragansett Bay than I do among the savage Christians of Massachusetts Bay Colony."

A learned student of history says: "A new society was formed in Rhode Island upon the principles of entire liberty of conscience, and the uncontrolled power of the majority in secular concerns—which principles have not only maintained here in Rhode Island but have spread over the entire Union—and given laws to one-quarter of the globe; and dreaded for their moral influence, they stand in the background of every democratic struggle in Europe. Another historian says: "He sowed the seed of liberty which brought forth a bountiful harvest; we enjoy its multiplied blessings." In those days every man's religion was dictated by the state; the state compelled church attendance on Sunday; the people were taxed so that the state supported religion, whether they made any profession of religion or not.

The Puritans believed in religious liberty, but this liberty was not to be enjoyed by any dissenting groups which were not in agreement with the Puritan religion. Oliver Cromwell exposed and denounced this fault when he said: "Is it

ingenuous to ask liberty and not give it? What greater hypocrisy for those who were oppressed by the bishop to become the greatest oppressors themselves as soon as their yoke was removed!"

George Bancroft says: "He was the first person in modern (times) to assert in its plentitude the doctrine of the liberty of conscience, the equality of opinions before the law—Williams would permit persecution of no religion, leaving heresy unharmed by law, and orthodoxy unprotected by the terrors of penal statutes—Longacre says: "While the people of Rhode Island did not always adhere strictly to the ideals of Roger Williams after he passed off the stage of action, yet they were exceedingly jealous for the preservation of their peculiar institutions of religious liberty and freedom of conscience which the founder of Rhode Island had bequeathed to them as their peculiar heritage. When the Constitutional Convention in Philadelphia in 1787 left the question of the establishment of religious liberty and of a state church untouched and undecided in the Constitution which it submitted to the people for ratification, the people of Rhode Island deliberately refused to ratify it unless and until a Bill of Rights was added that guaranteed absolute separation of Church and State, the non-interference in religious matters, and the unmolested and free exercise of the conscience of the individual in matters of religious concerns."

The opposition in that time against the truth was not unlike the violent opposition against Jehovah's witnesses today. Who could doubt that Jehovah raised him up and that he put it into the heart of Roger Williams to perform a task in the face of such tremendous opposition? Today we find the same spirit moving the hearts of His witnesses. The full confidence that Jehovah is backing them up enables them to carry on in the work of announcing the New Government that shall stand forever, The Theocracy. They are opposed by the combined forces of Satan as Roger Williams was in his day. With the religious, financial, and

political influences all entrenched in the seat of governments, a corrupt press and radio, and "legions" of patriots ready to crush the life out of those who appear defenseless against them because they insist on telling the truth and obeying God, Jehovah's witnesses are determined that nothing shall stop them. They know that Jehovah will fight for His people as He did in days of old and in His due time He will completely vindicate His great name, and incidentally His own people, and that time is very near.
HAIL THE THEOCRACY!

AN HONEST GIRL:

The girl referred to in Consolation No. 504, page 15, is a New England girl. Her parents had had a knowledge of the truth for years, but had not taken their stand for it. They thought their little girl ought to go to Sunday School; so they sent her to a Baptist Sunday School when she had reached the age of 7; but after a few Sundays she would not go any more, saying they did not tell the truth as her mother and daddy believed and taught.

Next they sent her to a Congregational Sunday School, where she stood up for the Bible teaching that only Jesus and the little flock go to heaven and all the rest of the people stay on the earth if they love the Lord; the earth abideth forever, and God will make it like the garden of Eden. The teacher got nervous and so did the girl, and a third Sunday School was tried. In her third and last trial the girl stood by the Bible teaching that we do not have souls; each of us is a soul, and "the soul that sinneth, it shall die." When the girl came home she told her mother she didn't want to go to any more churches, because they don't teach the Bible.

Recently, this office had a letter from this girl and in it she said:

"To prove that one's course of action is an example to those of good-will, I cite an instance that has filled my heart with joy (and not mine only). Before I was born my parents attended meetings of the International Bible Students, but

took no stand for the Kingdom. Since I was a baby they instructed me as far as they knew, but then for over twelve years did not attend any classes. I was sent to Church, but was quickly disgusted with the hypocritical racketeers found therein. I regained the truth, began attending the meetings, and at thirteen made a consecration of myself to do God's will. For the past five years I have been trying to be faithful to the Lord. All this time my parents remained dormant, not even attending studies, though they never opposed the work.

About two months ago I stated definitely my intention of becoming a pioneer, thus devoting all my time to the honor and glory of the name of Jehovah. Since it meant going away from home, and since I am the only child, it was a blow to my parents, and my mother was especially vexed. Our household was in a miserable tension for about a week. And then it happened. My father came to class and liked it. He went on back-calls with me and had a grand time. He went out in the service, and it surely seemed strange to see him trudging along with a bag of books under one arm and a phonograph dangling at his side. My mother then turned about face, helped me prepare to leave, and attended meetings. One week after I left home she went out in the service for the first time. Now, about a month later, they have established themselves as two of the Lord's "other sheep". They have a wonderful time out in the work each week. My mother was just immersed, and my Dad goes out on back-calls whenever possible, and is conducting a model study."

ARRESTED FOR "BLASPHEMY".

Jesus was charged with blasphemy, and so none should be surprised that this young girl, still in her teens, has been arrested many times, and on the last occasion was at liberty on bonds totaling three hundred dollars for blasphemy in the State of Vermont. If Jesus had been in Vermont when He called the clergy sons of the Devil, vipers, goats, wolves, whitened sepulchers, liars, and murderers, they would

have fined Him ten times as much and tried to kill Him besides.

Why the state of Vermont, and especially the city of Burlington, cannot stand it to have a girl in her teens preach the gospel in their midst is something for the Vermonters and the Burlingtonians to explain.

The arrest for blasphemy was at Rutland, but when Mayor John J. Burns, of Burlington, heard of it, he rushed down there and reported that he had appointed twenty-two secret police in Burlington to check up on "suspicious persons". The Burlington Press saw that he was making a fool of himself, and gave the mayor this roast:

"With that number of 'secret police', the mayor ought to have soon the life history and daily habits of nearly every adult in Burlington. Probably, in his efficient manner, he has us all card-catalogued in his private files safely under lock and key in the City Hall vaults.

That's really quite an idea. It should serve as a check on many a citizen who otherwise might think he could keep his life sort of private and unofficial. If tempted to make remarks to his neighbor which might, when repeated, lead to the suspicion that he was only 99 percent patriotic, the sobering thought that perhaps that very neighbor might be a member of the "secret police", should serve to restrain him from any such careless freedom of speech.

In order to be sure that the job is done thoroughly, and that nobody evades this net for fifth columnists which is being spread in Burlington, we believe the Mayor should increase his Gestapo to 27. That would give one for each thousand of population, which would seem to be none too many for this important task."

Five days passed, when the Rutland Herald came out with a condemnation of the methods of Mayor Burns and of his statement that "sometimes the things it is best to do are not quite within the law, but they are effective." "Political and religious liberty and government by law are the deepest-rooted qualities of a democracy. When we start talking

about methods which are 'not quite within the law', we are striking as hard a blow at American freedom as could be struck by any fifth columnists."

The result of these editorials was that the blasphemy charges were "continued indefinitely", i. e., they were dropped. But the blessings that were brought to the girl and to the others involved will doubtless continue forever.

THE GRATITUDE OF THE POOR.

Jesus explained that if you want to receive a real blessing the course to pursue is to do something for somebody who can do nothing for you in return. That being the case, how do you suppose Judge Rutherford felt when he got a little note from Geo. S. Kennedy, from a state institution in New England, in which that gentleman said:

"How thankful we men here at the State Farm feel to receive those leaflets outlining the work of the blessed Bible Society. My friends and myself are now reading and rejoicing in the message contained in the booklet REFUGEES, received yesteruay. The Lord be with you. We hope some time to make some compensation for the comfort you have given us in the past year. God's spirit is certainly with the Society. The fountain of youth is there."

AFTER three calls on a New England family the mother of the family wrote to the witnesses who had called on her: "Thank you so much for the MODEL STUDY booklet; we are making good use of it. Don is very interested; he likes to read the answers and look up the ~~verses~~ in the Bible; also shows surprising interest for his age. While, as I told you, it is many years since I first took interest in this work, it is only since your coming that I have realized the mighty volume it has grown to be, and also to realize what a wonderful God the Almighty is when one really comes to understand his Word."

LOSS OF EMPLOYMENT.

It is very common in New England for Jehovah's witnesses to be arrested for no cause, to have their property destroyed for no cause, and to lose their employment for no cause,

except that they are hated by the Devil and those who have the spirit of their father, the Devil. This was pretty well stated in a noble, broadminded letter to Donald E. Morse, Local No. 340, Vermont, by John P. Burke, in which he said: "You say that one of the members of your local refuses to salute the American flag. I notice that he is a member of the religious sect known as Jehovah's witnesses. You ask me what action your local can take in the matter. I do not see that there is anything you can do about this. The members of this religious sect, Jehovah's witnesses, have religious ideas that seem strange to the rest of us. It seems that they are willing to suffer and endure for their religious convictions. I do not believe you could get this member to salute the American flag, even if you did expel him, and it meant the loss of his job, because members of this religious sect are so convinced that they are right that they are willing to suffer the same as Christ and the early Christians had to suffer.

Now I must confess that I admire them for being willing to suffer for their beliefs. They may be wrong in their beliefs—I do not know about that—but at least they believe so strongly that they are willing to take whatever the consequences may be. I sometimes wish that we had more union members who believed in the trade union movement with the same spirit as the members of Jehovah's witnesses believe in their religion. Now, Brother Morse, I do not believe in persecuting people because of their religious beliefs. If this member doesn't want to salute the American flag, let us forget about it. The American flag will still continue to float, even though he does not salute it."

You would not suppose that anybody would set fire to a man's home because a man was a Christian. Yet that was done at Dover, New Hampshire. Because he is one of Jehovah's witnesses, firebugs set fire to the home of Alfred Schaal between 3:30 and 3:45 in the morning, while Schaal, his wife and seven children were asleep. Though the fire did \$400 damage, no lives were lost.

"REPROACHES AND AFFLICTIONS."

At Boston, Massachusetts, one of Jehovah's witnesses, a portly and muscular colored lady, was interviewing a lady about to leave her home for church, and offered to play a record for her, to which the lady consented. While the record was in process of being played the husband came in, stated that Boston was all right until people came around telling residents whom they should serve. He then broke two records and pushed the witness down stairs. Not wishing to lose her balance, the witness laid hold upon that masculine adornment known as a shirt and removed it with neatness and dispatch. Rather astonished the gentleman said, "Christians don't fight". To this the witness agreed and said, "Quite right. I am merely protecting myself. Jesus was no sissy, and neither are Jehovah's witnesses."

Two of the witnesses up in Vermont in the summertime had the unique experience of a woman rushing out of the house at them when they wanted to play one of these same records in her yard. She finally consented, and, after listening, said, "That is fine, and I apologize for not inviting you in, but I had heard evil reports regarding your work." The local newspapers had given the people what the religionists want —hatred of their best friends.

At Harrison, Maine, one of Jehovah's witnesses was about to play a phonograph record for a young man, when a gentleman, evidently his father, grabbed an axe and made a demonstration of wrath which made the interview impracticable. A few nights later this man's house and barn burned to the ground, destroying 17 cows, some pigs, hundreds of chickens, every stitch of his clothing, and everything else that he possessed. When some heard how he had treated Jehovah's witnesses they were inclined not to give him anything to get another start, but the witnesses themselves heard of it, and let it be known that they wanted his friends to help him in every way they saw fit: they would not return evil for evil. This had a good influence for The Theocracy in the community. Let the Devil pursue his

chosen course as he will, and let Jehovah's people choose the right way and turn not from it to the right or to the left until the end of the way.

Noah Richardson, Jr., wrote in and said that at the first house he called at in Exeter, New Hampshire, the man came out and sat down and listened to what he had to say about dividing the "sheep" from the "goats", and said, "I have been a "goat" long enough; it is time I get on the side of the "sheep." The man took three booklets and was glad, and so was Richardson.

Lloyd B. Stull, one of the witnesses in Maine writes: "Jehovah's blessing was manifestly on the distribution of the special booklets for the clergy and officials. Some took the booklets and thanked us for them, and some tore them up right in front of us. One man refused his, and slammed the door so quickly that it caught in the door. Another minister threw his off the porch into the yard; but when I went back that way an hour later it was gone.

I was in Richmond, Maine, one afternoon getting some names and calling on some of the people, but had to leave before I completed my work there, as I had back-calls in the evening. The next morning I was there and making inquiry about where Mrs. Joss, one of the School Board, lived, and they said that was the woman that was murdered last night, and they were looking for the one who had done it. One man asked me if I was a stranger in town; and when I said, "No", and told where I lived, he said that they were picking up all the strangers in town. I wonder if Satan had not planned to bring reproach upon Jehovah's name there, as I would no doubt have called on this woman that same evening if I had had the time. Of course, the general impression now is that it was her husband that murdered her. We were assigned territory across the river from Bath, and there was no way to get over to Bath except by crossing a 50c toll bridge. Since then the toll has been removed and we have found the people over there in a very receptive atti-

tude. We did not have the money to pay the toll anyway, and now we do not need it."

THE PERSECUTION OF CHILDREN.

At Saugus, Massachusetts, the School Board, blinded in their minds by the god of this world, expelled the children of Jehovah's witnesses from school for conscientious refusal to salute the flag; then they deprived a life-long teacher of her job for the same reason; then they threatened mob action, and only a level-headed and honest newspaper editor kept them from carrying out their threats; then when Jehovah's witnesses, at great effort, of time and money, had provided their own School at Saugus, the same crowd prevented work on the building on the day succeeding the Scriptural sabbath, and even on holidays; then the building inspector condemned a job which he knew was an A-1 job, necessitating the pulling down of a firewall; then the electric inspector performed a similiar stunt; then, though the building is mostly windows, they had to put in more windows; then further persecution in the demand, entirely vicious, that a \$200 ventilator system be installed; and then the teacher, who had taught all her life, was forbidden to teach further. That's going some, even for Massachusetts. At length came a meeting before the School Board, a petition that the little folks be re-admitted to the public schools from which they had been unjustly and viciously expelled. The School Board were asked to consider the pledge of allegiance to Almighty God which both the parents and the children are willing to make. They were asked also to read and consider Matthew 18:5-7, which reads:

"And whoso shall receive one such little child in my name, receiveth me. But whoso shall offend one of these little ones which believe in me, it were better for him that a millstone were hanged about his neck, and that he were drowned in the depth of the sea. Woe unto the world because of offences! For it must needs be that offences come; but woe to that man by whom the offence cometh!"

A courageous newspaper editor published the whole splen-

did pledge as set out in the Watch Tower literature; a radio station broadcast it; and Jehovah's witnesses are content to abide by the result. They want only what Jehovah God wants, and they well know that it won't be long now before all their enemies shall lick the dust and never rise to contaminate the earth any more at all. See Consolation No. 560, page ____.

PUBLIC OPINION IN MAINE—

Q Just a minute, Gene; start there at Kennebunk and the Legion. This part here has already been read.

BY THE COURT: Mr. Clark, I have allowed you to have read a great deal that I don't think is necessary. Pick out what you think the Jury should hear. If you read everything in the Book you are just taking up time. For instance, there is a news item in there with reference to every-day news. The entire Book is already in. You can read anything with reference to this matter, but you can't take up the entire evening reading something that has nothing in the world to do with the case.

BY MR. CLARK:

I objected to the introduction of this Book, your Honor, on the ground that unless you'd let me read it—that is, I objected to it unless you would let me read it and you said I could read it, if the Court please.

BY THE COURT:

If you want to read the rest of it when you go to argue the case you may do so. It certainly isn't unreasonable for me to ask you not to take up time here on something that has no bearing on the case whatsoever.

BY MR. CLARK:

I want to show there wasn't any evil intent at the time on the part of this girl in distributing this, if she did distribute it.

BY THE COURT:

If there is any matter there that you want to pick out that has any bearing, or connection, with the matter involved in this case, you may have it read, but something

that has nothing to do with it you can't read it. The Jury will have the book with them anyway and they can read it.

BY MR. CLARK: In order to get the record straight I want to ask him to begin where he left off and begin here at "Kennebunk and the Legion" and read.

BY MR. CALLENDAR:

We object to anything being read there except what is essential to this trial, if the Court please. It is just taking up the time of the Court.

BY THE COURT: Let me see what you mean—How in the world could that affect this case here, Mr. Clark?

BY MR. CLARK:

Your Honor, I have one here dealing with the Flag salute question called "Common Sense in Maine", I'd like for him to read.

BY THE COURT: Alright, he can read that.

Q Go ahead, Gene.

A "Common Sense in Maine.

The Maine House rejected a bill requiring school children to salute the Flag. Representative Hinckley said: "It is my firm opinion that you can't legislate patriotism. I think any society whose members are convinced they should not salute the Flag should have the right to do as it pleases." Representative Rollins, a World War veteran, said he believed patriotism is something that comes from within and "if you force everyone to salute the Flag you won't know the loyal ones from the disloyal." "

Q I want to ask you to say as to these different articles —are those articles there from different newspapers of the Country, including the one you started to read awhile ago?

A Yes, sir.

Q And that which is included in this indictment?

A Yes, sir.

Q What newspaper was that quoted from, the one you started to read awhile ago?

A Lewiston Daily Sun, a newspaper in Maine.

Q That is the article quoted in the indictment; have you

read that article? A Yes, sir.

Q And what newspaper did you say it was quoted from?

A Lewiston Daily Sun.

Q Did it make you disrespect the Government?

A No, sir.

Q Did it make you disrespect the Flag? A No, sir.

Q Have you ever been expelled from School for refusing to salute the Flag?

BY MR. DALE: We object to that.

BY THE COURT: SUSTAINED.

Q Are you a graduate of a School? A Yes, sir.

Q What School? A Beat 4 High School.

Q Read the title of this Magazine to the Jury?

A "Consolation, A Journal of Fact, Hope, and Courage."

Q Read the rest of it.

A "Acts of the Theocracy in New England. Roger Williams, Jehovah's Witness. The Forgotten God. The Penalty to the Nations for Forgetting. Jesuit Cunning Utilizes Communism. Instinct and Reason in Birds."

Q Is that an ordinary magazine like any other magazine of the Nation?

BY MR. DALE: We object; the magazine speaks for itself.

BY THE COURT: Sustained.

Q How often is that magazine published?

A Every two weeks.

Q Does it come through the mail all over the nation?

A Yes, sir.

Q Are you one of Jehovah's Witnesses?

A Any Christian that loves the Lord is a witness to Jehovah.

BY MR. DALE: We object to that. Let him answer the question.

A Sure, I'm a Christian.

Q Are you a Jehovah's Witness? A Yes.

Q That's all.

CROSS EXAMINATION BY MR. DALE:

Q You are Mr. Clark's, this girl's attorney, son, aren't you? A Yes, sir.

Q That's all.

(WITNESS DISMISSED)

MRS. JULIA ASKEW: being produced and first duly sworn testified for the DEFENDANT as follows, to-wit:

DIRECT EXAMINATION BY MR. CLARK:

Q You are Mrs. Julia Askew?

A I am.

Q Do you know the defendant in this case, Miss Betty Benoit? A I do.

Q How long have you known her?

A Since April 14th, this year.

Q Where has she been since that time?

A Staying at my house.

Q Did she ever give you that magazine, or one like it?

A I have had the Consolation magazine in my house, but I don't know whether it was this particular one or not. She has given me several of them.

Q Read that and see what issue this one is?

A January issue. January 21st.

Q Have you ever seen that issue?

A No, sir, I never have seen this one.

Q You have seen newer ones than that?

A Yes, sir, but I never have seen that one.

Q Have you seen that magazine there before?

BY MR. DALE: If the Court please, we object to that; unless it is the same magazine it has no place in this case.

A I have seen one with a Flag on it.

BY THE COURT: He hasn't offered it yet.

Q I WOULD LIKE TO OFFER IT to show how these people stand with reference to the Flag.

BY MR. DALE: To which we object.

BY THE COURT: Sustained.

BY THE COURT: Do you want to make a record on it? If you do, you may.

BY MR. CLARK: I want to have this one marked for identification in order to make my record, if the Court please.
(EX. B-Deft. Identification only)

BY THE COURT: Very well.

Q I have here another one "Acts of the Theocracy in New York State—the other one was "Acts of the Theocracy in New England—it shows it is a series of articles. I WANT TO HAVE THIS ONE MARKED FOR THE RECORD.
(Ex. C-Deft. Identification only)

BY MR. DALE: We object to the introduction of any of them except the one charged.

BY THE COURT: You may have it marked for identification in order to make your record.

Q I want this one MARKED too for the record, if the Court please. (Exhibit D-Deft. Identification only)

I have another one here I want to offer and have marked for the record, if the Court please. (Ex. E-Deft. Identification only)

BY MR. DALE: We object to the introduction of any of those books in evidence, if the Court please.

BY THE COURT: They are marked for identification so that he might make his record, and that's all.

Q Mrs. Askew, you've read those magazines, have you?

A Some of them I have. The latest issue I haven't had time to read it but I have read some of them.

Q You have read the indictment here against the girls. Now, read this.

BY MR. DALE: We object to that because it has been read to the Jury already.

BY THE COURT: Sustained; the Jury will have it and it has been read to them already anyway.

Q Mrs. Askew, do you know the reputation of this woman for truth and veracity around in your community?

A I do.

Q Is it good or bad? A It is good.

Q You may take the witness.

CROSS EXAMINATION BY MR. DALE:

Q I believe this Defendant and Mrs. Babin came to your home on April 14th, this year? A Yes, sir.

Q And they've been there together? A Yes, sir.

Q And you did not know them until they came to your home, did you? A No, sir.

Q That's all.

(WITNESS DISMISSED)

MR. W. T. HORNSBY: being produced and first duly sworn testified for the DEFENDANT as follows, to-wit:

DIRECT EXAMINATION BY MR. CLARK:

Q What is your name? A W. T. Hornsby.

Q Have you known Miss Betty Benoit for some time?

A Yes, I've known her since August, last year.

Q Is her reputation for truth—

BY MR. CALLENDAR: We object to that. That isn't the proper way to prove her reputation.

Q Do you know her general reputation for truth and veracity?

A As long as I have known her it has been good to my knowledge.

Q That's all.

CROSS EXAMINATION BY MR. DALE:

Q You've known her since when? A Last August.

Q Where do you live? A Lumberton, Mississippi.

Q And what is your name? A W. T. Hornsby.

Q That's all.

RE-DIRECT EXAMINATION BY MR. CLARK:

Q Do you know Annie Felix, Mr. Hornsby?

A Yes, sir.

Q Have you ever mailed her any literature and particularly along last winter about January and February?

BY MR. CALLENDAR: That is leading and we object to it.

Q Allright, tell what you do know about any literature that might have been sent to her.

A I have mailed her literature during the winter months but I can't give the exact dates. I can't give you the name of any month except the last one I know about was this month. I did mail her some I know and I have from time to time since about September last year.

Q Did you send her that one: "The Acts of the Theocracy in New England"?

A I couldn't be positive about that particular one. I know I sent her literature from time to time but I couldn't identify any particular number because I never pay any attention to the numbers on the magazines.

Q You have read that number, have you?

A I'm not sure I have,—however, as a rule I do read the magazine as it comes out.

Q If you mailed that to her, did you intend any--
BY MR. DALE: We object to that because there is no proof whatever that he mailed one at all.

BY THE COURT: SUSTAINED.

Q Have you read the indictment in this case?

A No, sir.

Q YOUR HONOR, I would like for him to read this indictment to himself.

BY THE COURT: You can get him back in the witness room and let him read it if you want to; there is no use taking up time here doing it.

BY MR. CLARK: Allright; go back in the room and do that, Mr. Hornsby.

(WITNESS DISMISSED)

MRS. W. T. HORNSBY: being produced and first duly sworn testified for the DEFENDANT as follows, to-wit:

DIRECT EXAMINATION BY MR. CLARK:

Q Have you known this girl any length of time?

A Since about the middle of April, this year.

Q As to her general reputation for truth and veracity, do you know that?

A The number of times she's been in my home she conducted herself very nice.

BY MR. CALLENDAR: We object; that isn't responsive to the question.

Q As to her general reputation amongst the people for truth and veracity, is it good or bad? A Good.

CROSS EXAMINATION BY MR. DALE:

Q You live at Lumberton, I believe? A Yes.

Q This girl has been in your home a few times?

A Yes.

Q That's all.

(WITNESS DISMISSED)

MR. W. W. HOWELL: being produced and first duly sworn testified for the DEFENDANT as follows, to-wit:

DIRECT EXAMINATION BY MR. CLARK:

Q Have you known this defendant, Miss Betty Benoit, for some time? A About four years.

Q Do you know her general reputation for truth and veracity? A Yes.

Q Is it good or bad? A All I know is good.

Q Have you heard the people talk about her that know her? A Yes, sir, I know lots of her friends.

Q That's all.

CROSS EXAMINATION BY MR. DALE:

Q Where are you from, Mr. Howell? A Hattiesburg.

Q Where have you known this girl?

A I met her in New Orleans about 4 years ago.

Q And you have known her intermittently over that four years? A Yes, sir.

Q Have you ever been over to Houma, Louisiana, where she comes from? A No, sir.

Q You never have been there? A No, sir.

Q That's all.

RE-DIRECT EXAMINATION BY MR. CLARK:

Q You read that magazine with the article that is here in the indictment? A I read it since I came here.

Q You read the magazine since you came here?

A Yes.

Q In your reading those two excerpts from that magazine as quoted there; are they the leading articles in the magazine?

A No, sir; they are under certain headings quoting from some Maine newspaper, I think it is.

BY MR. DALE: We object; it speaks for itself—it is in the book.

BY THE COURT: Yes, it speaks for itself.

Q Is there anything in that article that shows any disregard or dis-respect for the American Flag?

BY MR. DALE: We object; that is the question for the Jury to decide.

BY THE COURT: Sustained.

A Not in my opinion.

BY MR. DALE: We object to the answer of the witness and move that it be stricken.

BY THE COURT: Sustained.

Q Can't he say what effect it has on his mind in the reading of that, YOUR HONOR?

BY MR. DALE: No, sir, because the Jury decides that.

BY THE COURT: Yes, that is for the Jury to say.

Q THE STATE has undertaken to prove that, if the Court please.

BY MR. DALE: No, sir. We introduced the evidence and let the Jury pass on it.

BY THE COURT: Go ahead. The Jury is empaneled for that very purpose and it isn't for this witness to say about that.

Q That's all.

(WITNESS DISMISSED)

MRS. VIOLET BABIN: being produced and first duly sworn testified for the DEFENDANT as follows, to-wit:

DIRECT EXAMINATION BY MR. CLARK:

Q This is Mrs. Violet Babin? A Yes.
Q You come from Louisiana, I believe? A I do.
Q What business did you come up here for?
A I came here to preach the Gospel of God's Kingdom, and I have been here since April 7th, 1942.

Q Did you at any time ever call at Annie Felix's home?
A I did.
Q Did you leave any literature there?
A I have left literature there. I left a booklet called "Hope."

Q Is that the one there? A It is.
Q Did you leave any magazines there?
A Not that I remember.
Q Mrs. Babin, the day Mr. Bill Owens was there—do you remember him coming to Annie Felix's home and breaking the phonograph?

A Yes, I certainly do. We'd gotten in the house about ten minutes and we were notified by Annie Felix the officers had been there and was coming back. And, as I said, we were in the house about ten minutes when Mr. Bill Owens came in with another officer—who, I don't know—and a taxi driver, and he asked us what we were doing there, and I presented him my testimony card that I offered here in Court the other day.

He told us that he didn't want us in Town and we would have to leave and that he spoke not only for himself but for the people of the City; and he said only over his dead body would we do this work here. He then grabbed the literature and the phonograph and the lecture and threw it out and broke it and set fire to it.

Q Was it your literature that he grabbed?
A No, sir, it was not.
Q Whose literature was it?

A It must have been Annie Felix's because it wasn't mine. I just brought my Bible and Watch Tower and the questions for the Watch Tower;—that is all I had at that time.

Q Mrs. Babin, why were you at Annie Felix's that day?

A We went there to have a Bible Study, or Watch Tower study with her. The Watch Tower is a magazine to help you to study the Bible.

Q This magazine, "Consolation", the January 21st issue, did you leave that issue there with Annie Felix at any time?

A Not that I remember.

Q I mean at any time? A No, sir.

Q Had you been to Annie Felix's before that time?

A I think once before that occurred.

Q Do you know how long it was before then?

A Thursday or Friday.

Q Thursday or Friday?

A Yes, and that took place on Sunday.

Q On that day—Thursday or Friday—did you leave any of those Consolation magazines there?

A No, I left this booklet because Annie had all of the literature except this one. This one was put out April 1st and she didn't have it, and I left a copy with her.

Q Was Annie Felix a subscriber to Consolation?

A She told me she was and the Watch Tower too.

Q You wanted to encourage her in the study of the Bible, did you? A Yes.

Q Is that the purpose you went there for?

A That is the very reason.

Q Did you have any intention of turning her against the Government?

BY MR. CALLENDAR: We object; she isn't on trial herself.

BY THE COURT: She can answer that question.

Q Did you have any intention of doing anything to turn her against the Government or cause her to have disrespect for the Government and the Flag, or creating any

disturbance or racial hatred?

A No, sir; I went there to have a Bible study.

Q Did you have any kind of a booklet except this one?

A When I went there that day I had my Bible, the Watch Tower, and the questions for the Watch Tower.

Q What do you mean by that?

A We studied the Watch Tower and get the important points and make questions on them and when we get together one will give out the questions and the other will look the question up in the Scriptures. It is purely a Bible Study.

Q Did any of you have a Bible there?

A I had mine and Betty Benoit had hers too.

Q Did Annie Felix have her Bible there too? A Yes.

Q Were there any other colored people present?

A There was just we three.

Q When Mr. Owens came in on this particular day that he burned the literature; did he burn very much of it?

A It was a phonograph and a 14 or 15 piece lecture, which was 14 or 15 records of Bible Lectures, and he took the literature from the table of Annie Felix and carried it outside and burned it. He broke the phonograph and the 14 or 15 records.

Q Was that your literature? A It was not.

Q Did he burn your Bible? A No.

Q Did he burn your Hope booklet?

A I didn't have it right at that time.

Q Did he burn your Watch Tower? A No.

Q Did he take your Watch Tower?

A He didn't touch it. He looked at my card and he said, "I've seen those before" and he gave it back to me, or rather he threw it over on the bed, and one of the other officers, or men, picked it up and read it after he threw it on the bed.

Q Did he say anything to Miss Benoit?

A He was speaking to both of us when he told us to get out of Town.

Q Did he say, "You all are distributing this magazine"?

Did he hold all of these magazines up and say, "You all are distributing these magazines"?

A No, he took them and put them in the yard and burned them.

Q He didn't ask you that question? A No.

Q Did he hear that lecture? What was the lecture?

A Children of the King.

Q What King? A Christ Jesus.

Q Did he hear that lecture played?

A No, sir, not while he was there.

Q He didn't hear it while he was there?

A No, he broke it while he was there.

Q Did you undertake to play it for him?

A No; I didn't even answer him except to show him my testimony card. I saw he was so angry it wouldn't have done any good to say anything to him so I kept my mouth shut.

Q You may take the witness.

CROSS EXAMINATION BY MR. DALE:

Q When you went to Annie Felix's at any time, did you have the Consolation magazine?

A You mean before Mr. Owens came there?

Q Yes. A No, I didn't.

Q You didn't have it on either visit there?

A No, sir; I didn't carry anything except the current events.

Q Did you ever carry the Consolation magazine with you? A You mean when I was there?

Q Yes. A Not that I remember.

Q Did you carry it with you at any time in Marion County?

A Yes, from door to door but the current event, or current issue, is the only one I carried from door to door.

Q This magazine is published every two weeks, isn't it?

A It is.

Q What was the date of the issue you had when you went—as you testified before—to Aileen Wilks' and offered

her one? A That was about three issues back I think.

Q Wasn't it under date of March 4th? A Yes.

Q And you were there at Aileen Wilks' in May, weren't you? A The beginning of May.

Q From March 4th down to May would be two months, wouldn't it? A About that.

Q And there would have been four or five magazines published in that length of time if it is published every two weeks, wouldn't it? A Well, yes.

Q And you say that on neither trip that you made to Annie Felix's did you carry the Consolation magazine with you? A Not that I remember.

Q You have been convicted already, haven't you?

A That's correct.

Q By a Jury in this Court last week? A Yes.

Q Under this same law? A Yes.

Q When you came to Columbia on April 7th—was it April 7th? A April 7th, yes.

Q When you came to Columbia, Marion County, Mississippi, on April 7th, this year, Miss Betty Benoit was with you, wasn't she? A She was.

Q You and she are both from Houma, Louisiana, aren't you?

A We are from New Orleans—that is, we were from New Orleans at the time we came here.

Q But your home is in Terrebonne Parish in Louisiana, isn't it? A Yes.

Q Both of your homes, I mean? A That's correct.

Q You came from New Orleans here together? A Yes.

Q Did you go to New Orleans together from Terrebonne Parish, Louisiana?

A We have been in New Orleans for the past two or three years working together.

Q For two or three years you worked together in New Orleans? A Yes.

Q And on April 7th, 1942, you and she came here together from New Orleans? A Yes.

Q During the week—or whatever day it was you first went to Annie Felix's—you and she went there together, didn't you? A That Sunday!

Q You'd been there before Sunday, hadn't you?

A Yes, one time.

Q You and Miss Benoit had gone there together that time, hadn't you? A Yes.

Q You and she were there together that day? A Yes.

Q And on Sunday, April 12th, you and she went there together?

A Yes; we went there together that Sunday Mr. Owens came there.

Q You and she room together, don't you? A We do.

Q You sleep together too, don't you? A Yes.

Q You have been together in all of your work for three, four, or five years, haven't you? A Yes.

Q And you've been inseparable since you have been in Columbia in your work? A We work together.

Q Whenever you go out to work together if you have your phonograph and literature, one will carry the phonograph and the other one the literature; is that right?

A Yes.

Q In other words, you divide the load?

A She carries her own and I carry my own.

Q Well, you organize your work and she takes part of it and the other part you take?

A She carries the literature she works with and I carry the literature I work with.

Q You work with different literature? A The same.

Q That is what I mean.

A We are instructed to work with certain literature at certain times.

Q You work with the Consolation magazine sometimes, don't you, Mrs. Babin?

A We work with the current event issue. If we have any back numbers left we work with them sometime at different occasions.

Q When you and she came here on April 7th you brought literature with you, didn't you? A Yes.

Q You brought some back numbers with you too, didn't you? A Not that I remember.

Q Wasn't this one, December 10th, taken from you?

A Not that I remember.

Q You will not say you didn't bring that very magazine into town with you, will you? A I didn't bring it.

Q That's December 10th, 1941—

A The Consolation magazine wasn't sent to us through the mail. About a month after we were here we had our Consolation transferred to us here.

Q That Consolation magazine is published by the Watch Tower Bible and Tract Society, Inc., of Brooklyn, New York, isn't it? A It is.

Q Published by the same Society that published this small one "Hope"? A Yes.

Q And by the same Society that published the Watch Tower magazine? A Yes, sir.

Q And published by the same Society that published the Children's Book? A Yes.

Q All the literature you distribute is published by the Watchtower Bible & Tract Society, Inc., of Brooklyn, New York, isn't it? A Yes.

Q And the Consolation magazine is a part of that literature, isn't it? A Yes.

Q Published and put out all along by this same Society?

A Consolation is a Journal of Fact, Hope, and Courage. It is current news taken from different newspapers.

Q When they mailed this to you, or a subscriber, how is it addressed?

A By their names and addresses.

Q When they mailed it to you, they mailed how many at a time to you? A They mail me seven at a time.

Q And you give them out?

A I leave them with some people.

Q And the reason they come to you is for you to either

sell them or leave, or teach them to other people?

A We don't teach anything.

Q Well, to let them read it then.

A We put them out.

Q Well, the purpose of every bit of that literature you get published by the Watch Tower Bible & Tract Society is for other people to get it into their hands and know what is in it; isn't that the very purpose of all of your literature—the Consolation, Hope, the Watch Tower; and every feature and phase of the literature the Watchtower Bible & Tract Society, Inc., of Brooklyn, New York, publishes is sent to you and your co-workers for the purpose of giving that literature to other people, or selling it to them, or loaning it to them, or reading it to them?

A To those who will take it.

Q And the purpose of you giving it out to people was for them to read it or study it, wasn't it?

A Our purpose—

Q I mean the purpose of it being sent to you? It wasn't sent for you to throw it in a stump hole and forget about it, was it? A No, I guess not.

Q The very purpose of this and every piece of literature sent to you was sent to you—and this came here—for the purpose of taking this literature and getting it before the people, whether you taught it to them, read it to them, sold it to them, or gave it to them—you had no other purpose to come here to the City of Columbia other than to put to work your literature and your teaching of the Bible as you understand it; isn't that right? You wanted to get that before the people here in Columbia and Marion County, didn't you?

A My purpose is to teach God's Kingdom.

Q And this is part of the instrument through which you teach it, isn't it?

A That book there is a Journal of Fact, Hope, and Courage.

Q But that's part of your way of teaching that very thing, or bringing it to the people, isn't it?

A I don't teach.

Q Well, that is part of your way of calling attention to your belief to the people, isn't it?

A You mean the Consolation?

Q Yes, and the booklet Hope, the Watch Tower, and anything else your Company publishes; that is the way you do it, isn't it?

A If anybody picks up a newspaper and reads it, they read current news and this Magazine puts out the current news too.

Q Well, you put that out so other people can see what you have in your Consolation magazine and other literature, don't you? A If they want to read it, yes.

Q When your Publishing Company addresses a Magazine to a subscriber they put that subscriber's name on it, don't they?

A They have it wrapped with the name and address on the wrapper.

Q They don't ever put it on the book at all?

A I don't know about that. When I get mine they are wrapped and my name and address is on the wrapper—it is stamped on there.

Q There is no name and address on this one, is there?

A No.

Q And none on there?

A No. I received some from the Watch Tower—a single copy—which was wrapped and my name on the wrapper.

Q That's published by the Watchtower Bible & Tract Society, Inc., of Brooklyn, New York entitled, "Consolation", isn't it? A Yes.

Q A Journal of Fact, Hope, and Courage? A Yes.

Q That is one of the very issues of your papers and your literature that you handle, isn't it?

A We handle the Consolation magazine.

Q In other words, you are trying to keep from saying you handled this one, but you handled all the other issues; isn't that it?

A I do handle the Consolation magazine, that is correct, but—

Q That'll be all, Mrs. Babin.

RE-DIRECT EXAMINATION BY MR. CLARK:

Q Did you put that magazine in the hand of Annie Felix?

A I did not.

Q I mean of that issue? A I did not.

Q When is that issue? A January 21st, 1942.

Q Do you subscribe to everything that is in that magazine?

A No, sir; some of the things I don't even read in there.

BY MR. CALLENDAR: We object to that, if the Court please.

Q Is that your teachings? A No, it isn't.

Q That's all.

RE-DIRECT EXAMINATION BY MR. DALE:

Q What is the date of that issue?

A December 10th, 1941.

Q Did you bring that up here with you? A I didn't.

A As a matter of fact, wasn't that taken from your brief-case when you were in jail in April?

A Not that I know of.

Q Isn't that right; wasn't that very magazine taken from your brief-case when you were in jail in April?

A I don't know whether it was or not; I couldn't say about that.

Q That's all.

(WITNESS DISMISSED)

BY MR. CLARK: If the Court please, I want to recall Annie Felix for further cross-examination.

BY MR. DALE: We have dismissed her, told her we were through with her, and she has gone home, I suppose. If you want her I'm afraid you'll have to get her here yourself.

ANNIE FELIX (colored) being produced and first duly sworn testified for the DEFENDANT as follows, to-wit:

DIRECT EXAMINATION BY MR. CLARK:

Q Annie, did Mrs. Violet Babin—I mean Miss Betty Benoit, ever give you any literature? A No, sir.

Q Did Mrs. Babin give you this booklet? A Yes, sir.

Q I WANT TO INTRODUCE THIS BOOKLET in evidence as Exhibit A-1 to Defendant's testimony—or to the testimony of Annie Felix.

BY MR. DALE: We object because it isn't in issue in the trial of this case.

Q Did she give it to you?

A Yes, sir, she give it to me free.

Q When? A The first day she was there.

BY MR. DALE: We object to that, if the Court please.

BY THE COURT: It may be introduced for the purpose of being identified but you can't take up time to read it. (Ex. A-1 Defendant. Identification only.)

Q How many pieces of literature did she let you have?

A One, the ~~first~~ day.

Q And it ~~was~~ one piece? A Yes, sir.

Q Did she ever ~~leave~~ your house two times? A Yes, sir.

Q The ~~next day~~ did she leave any there that day?

A She ~~didn't leave~~ any there that Sunday.

Q That's all.

(WITNESS DISMISSED)

MRS. T. E. KLEIN: being produced and first duly sworn testified for the DEFENDANT as follows, to-wit:

DIRECT EXAMINATION BY MR. CLARK:

Q Mrs. Klein, where are you from?

A Maoruro, Louisiana.

Q Do you know Miss Betty Benoit? A Yes, sir.

Q How long have you known her? A Four years.

Q Do you know her among the people and the commu-

nity where she has been and resides? A Yes.

Q What is her general reputation for truth and veracity?

A Everybody thinks very highly of her.

BY MR. DALE: We object; that doesn't answer the question.

Q Is that reputation good or bad? A It is good.

Q That's all.

CROSS EXAMINATION BY MR. DALE:

Q Where is Maoruro, Louisiana?

A Across the river from New Orleans.

Q It is part of New Orleans just separated by the river, isn't it?

A It is just across the river. You are thinking of Algiers I expect.

Q In Houma, Louisiana, where this woman was born and raised is 70 or 80 miles from there, isn't it?

A Yes, but I have been over there many times.

Q Did you know her before she came to New Orleans?

A Yes, four years.

Q She has been in New Orleans that long, hasn't she?

A In and out of New Orleans.

Q For four years?

A I don't know about before that time.

Q You are of the same belief she is, aren't you?

A I'm not on trial.

Q You are of the same belief, aren't you?

A I'm not on trial.

Q She and you are of the same faith, aren't you?

A I am a servant of Almighty God.

Q That is what she is too, isn't it; and you and she are co-workers, aren't you?

A Sure; we are servants of Almighty God.

Q That's all.

(WITNESS DISMISSED)

MISS BETTY BENOIT: being produced and first duly sworn testified as the DEFENDANT as follows, to-wit:

DIRECT EXAMINATION BY MR. CLARK:

Q You are Miss Betty Benoit? A Yes, I am.

Q Miss Benoit, you heard the State witness say that you said you were distributing, or had been distributing, since you were here this volume 23 No. 583 of the magazine Consolation; state whether or not you distributed that volume at any time since you have been here?

A I have not distributed that magazine here but I have distributed the current issue since April.

Q Do you and Mrs. Babin always take exactly the same books and magazines in your bags when you go out to work?

A I don't know about what literature she carries. I have my own literature and my own separate account; I receive my literature and she receives hers.

Q Did you or not give that magazine to Annie Felix?

A No, sir, I did not.

Q On any occasion?

A I haven't given Annie Felix any literature at any time.

Q Why did you give other people literature and didn't give Annie Felix any?

A Annie had most of the literature, and I was there only a few times.

Q Were you there on the occasion when Mr. Bill Owens came there and broke your phonograph and records?

A Yes; he broke a 14 part phonograph lecture and phonograph.

Q What was the name of that record?

A Children of the King.

Q How long was that lecture? A It had 14 parts.

Q Who was the author of it?

A The Watch Tower Bible and Tract Society and the speaker was Judge J. F. Rutherford.

Q Have you ever read the article in here you are charged

with distributing that is quoted from the Lewiston Daily Sun and a dispatch from Monte Carlo—two news items—have you read those? A Yes.

Q Do you subscribe to those teachings altogether that are quoted there from those papers?

A No, sir. The Consolation magazine is a news journal, and I don't agree with everything it publishes no more than an editor of a newspaper agrees with everything he publishes. I do not subscribe to everything in the magazine.

Q You distribute it because it is a magazine of Fact, Hope, and Courage, do you? Or, do you distribute it because it is a magazine of Fact, or because it is magazine of Hope, or because it is a magazine of courage?

A I distribute it because of all three. It contains interesting facts presented to the people.

Q Do you agree with all things written, or recorded, in it?

BY MR. DALE: We object to that, if the Court please.

BY THE COURT: OVERRULED.

BY MR. DALE: We except.

Q Do you agree with all of the articles in the magazine, whether quotations from other newspapers or not?

A No, I do not.

Q Do you agree with all of that which is said there with reference to the flag salute and the flag standing for the Supreme Court; do you agree with that definition of the Flag?

A I think the Flag stands for freedom.

Q You do not agree with that definition there any more than you agree with the rest of it?

BY MR. DALE: We object; that has no place in this record. It is leading anyway.

BY THE COURT: You are practically telling her what to say in answer to your questions, Mr. Clark. Objection SUSTAINED.

Q I believe she answered and said she didn't agree with that article anyway. Did you answer it, Miss Benoit?

A I answered it.

Q What was your purpose at Annie Felix's home that day and at other people's homes since you have been here in Columbia?

A I came here to distribute the message concerning the Lord's Kingdom and encourage Bible study—to encourage people to look into the Bible and consider the facts; and to show the people the things in the Bible concerning the Lord's Kingdom and for their own welfare.

Q Did you come here as a teacher?

A No; the Lord Jesus Christ is the teacher and his teachings are recorded in the Bible, and we merely call attention to things like that.

Q In distributing that magazine, do you always read every line in it before you distribute it?

A I get so much of the literature I don't always have time to read each one. Sometimes I read the Consolation magazine, but mostly I read the Watch Tower because it is the Scriptural one of the two. I don't always get time to read all of it, however.

Q Between the two—the Consolation and the Watch Tower—which do you study and read carefully?

A The Watch Tower is the Scriptural magazine. Everything in it is from the Scripture and the Consolation is merely a news journal. It is like a newspaper. The Editor of a paper publishes everything whether he agrees with it or not, but he publishes it for the consideration of the people. That is the way the Consolation is. To me the Watch Tower is the important one. We study it and have weekly Bible study on it.

Q Was your purpose in this Town to injure this great Government of ours?

A No, sir. This Government provides me with the freedom to do this work and I love it. My purpose was to exercise the freedom to worship God. My purpose was not to destroy the very freedom I seek to exercise.

Q Since you have been here, have you taught anybody

to oppose the Government's military activities or pointed out to anybody that they should oppose it in any way?

BY MR. DALE: We object to that; she isn't charged with any such act; the literature speaks for itself anyway.

Q You say you did not distribute this one?

A No, sir, I did not. I distributed the current issues.

Q Did you see Mrs. Babin distribute it that day? The day Mr. Owens came to Annie's house?

A That day I don't think either one of us had any literature with us except the Watch Tower—I know I didn't.

Q Did Mrs. Babin distribute anything on Wednesday or Thursday before that Sunday to Annie Felix—I mean the first day you were there?

A I think she left the Hope booklet there that day.

Q Have you been back there any more since the breaking of the phonograph records by Mr. Owens?

A No, sir, I don't think so. I didn't go back.

Q According to Mr. Owen's statement he picked up off of the table there at Annie Felix's a bunch of books and magazines big enough to build a fire with—whose books were they so far as you know?

A They were not mine and they were not Mrs. Babin's, so they must have been Annie Felix's.

Q You couldn't swear they were Annie Felix's could you? A No.

Q But he got them off the table at Annie Felix's house?

A Yes.

Q You did not take them there?

A I didn't hand Annie Felix any literature of any kind.

Q Did you mail her any of any kind? A No.

Q According to Mr. Owen's statement he picked up the literature on the table and said to both of you "Did you all distribute this literature", or, "this magazine", holding out to you that particular magazine from all of the rest and asked you if you distributed that magazine; did he do that, Miss Benoit?

A He didn't ask if we distributed any of it. He picked

it up and took it out and burned it; and that's all there was to it.

Q While he was there, did he read those magazines?

A No, he did not. He just marched in and begun to rave and he madly picked up everything within his reach that looked like literature and carried it outside and destroyed it. He didn't ask me anything and I didn't answer him anything.

Q Did you talk to him at all?

A No; he was so angry it wouldn't have done any good to speak to him.

Q Do you remember whether or not Mrs. Babin said anything to him?

A She handed him her testimony card when he came in.

Q Did she discuss the matter with him at all?

A No; if she answered any question it was in answer to a question he asked her as to what we were doing there and she answered it by handing him her testimony card.

Q That's all.

CROSS EXAMINATION BY MR. DALE:

Q What kind of a brief-case do you have?

A It is a little bity brown one.

Q And you carry your literature in that brief-case, don't you? A Yes.

Q You've had that ever since you've been in Columbia, haven't you? A Yes.

Q You and Mrs. Violet Babin came to Columbia together on April 7th, this year, didn't you? A We did.

Q You came in on the same conveyance, whether bus, car, or train, didn't you? A Yes, we came in a car.

Q You came in the same car? A Yes.

Q Whose car was it?

A Some friend's from New Orleans.

Q That friend had loaned you that car and you and Mrs. Babin had it in your possession and were using it together; is that right?

A The one who loaned it brought us.

Q You kept the car, didn't you? A No, we did not.

Q You came here together in the same car the same day?

A Yes.

Q And you have roomed together ever since you have been here, haven't you? A Yes.

Q And since that time you have slept together, haven't you? A Yes.

Q And while you've been here you have worked together too, haven't you?

A Well, mostly we worked together but sometimes we worked different territory.

Q Sometimes you will take a street and you'd stop at one house and she'd go to the next one? A Yes.

Q You'd go past the house she took and go to the next one and she'd pass the one you took and go to the next one; that is the way you arranged it, isn't it?

A That is correct. Sometime, however, we work in entirely different territory.

Q But sometime you work a street and alternate the houses on the street as I described?

A Yes.

Q You'd go from house to house on a street alternating the houses between you? A Yes.

Q Or you sometime go to another section of Town and her to another section of town? A That is correct.

Q When you go to work you take your Bible, your Watch Tower, the Hope booklet, the Children's Book, and the Consolation magazine, and all the literature published by the Watch Tower Bible & Tract Society of Brooklyn, New York, don't you? A Yes.

Q This Consolation here is part of your standard work, isn't it? It is published every two weeks—every Wednesday every two weeks—regularly by the same Company that publishes Hope, the Children's Book, and all of those?

A Yes.

Q It is a standard publication of your Bible and Tract

Society, isn't it? A Yes.

Q Published regularly and according to the Acts of Congress with a regular subscription rate, and so forth?

A Yes.

Q That is part of your standard work? A Yes.

Q When you came to Columbia from New Orleans, did you bring any literature with you? A Yes.

Q What issues of the Consolation magazine did you bring?

A We came here in April and we probably had some March issues.

Q When you came here and when you were arrested and placed in jail wasn't this December issue taken out of your hand-bag, or brief-case, while you were in jail? That is the December issue there, isn't it?

A I don't know whether it was taken from my bag or not.

Q Will you say this December 10th, 1941, issue was not taken from your hand-bag while you were all in jail?

A I don't think it was taken out of mine because I carried only the current issues.

Q You will not say it was not taken from your hand-bag while you all were in jail here, will you?

A I couldn't say it was or wasn't but I know I carried the current issues.

Q But you will not say it was not, will you?

A I didn't see any magazines taken out of my bag.

Q That one is dated December 10th and then there would be another one December 24th, then one January 10th and one January 21, I believe—there is two issues between those two at any rate?

A I was in Houma when those were coming out.

Q There's two issues between those? A Yes.

Q This one was published December 10th, then another one two weeks later, and two weeks later another one, and then January 21st? A Yes.

Q You will not say that didn't come out of your brief-case?

A I didn't have an issue that far back in my case.

Q It didn't come out of there, did it?

A No, sir, I don't think it did.

Q Is that your publication there? A Yes.

Q That is published by the Watch Tower Bible & Tract Society of Brooklyn, New York, isn't it? A Yes.

Q That very one in evidence here was published by your Company—the Watch Tower Bible and Tract Society of New York—too, wasn't it? A Yes.

Q What does it say that is?

A "Consolation, a Journal of Fact, Hope, and Courage."

Q Is it a Journal of Fact? A Yes, it is.

Q You take it as a Journal of Fact, do you? A Yes.

Q The things in there are facts, are they?

A It is a fact that article was published in a newspaper, yes.

Q Well, you say it is a Journal of Fact, Hope, and Courage, don't you? A Yes.

Q You don't say it is a journal of somebody else's opinion, do you? A It certainly is.

Q You don't say that, do you?

A I don't agree with everything in it.

Q That is published by the Watch Tower Bible & Tract Society of Brooklyn, New York, isn't it? A Yes, sir.

Q And it is part of your standard literature that you carry around with you in your work? A Yes.

Q You say that came out at a time when you were in Houma? A Yes.

Q Did you ever handle any of that issue? A Yes.

Q So that, you have handled that very issue? A Yes.

Q You have had that very issue in your possession?

A Yes.

Q There is no doubt that in your work you have handled that very magazine right there? A Yes.

Q But you tell the Court and the Jury that since you

were indicted in this Court for distributing it, you didn't handle it in Marion County?

A That was distributed at the time I was in Houma, Louisiana. I disbursed, or distributed rather, the current issues as they came in.

Q All right; you take the Watch Tower, the Consolation, Hope, Children's Book, and anything else published by your company and carry it with you and you give it to people, or sell it to them, or read it to them, or teach it to them, don't you? A I don't teach anything.

Q Do you read it to them? A I distribute it.

Q You distribute it? A Yes.

Q And if they want to read it, well and good? A Yes.

Q You don't ask them to read it?

A It is up to the person as to whether they want to read it.

Q You don't suggest that they read it?

A That's the very purpose of distributing it.

Q That is right, the very purpose of distributing it is to get them to read what is in there, isn't it? A Yes.

Q Whenever you carry that one with you—or any of them—and distribute them, you want the people to read what is in them, don't you?

A Why, certainly. It is for their consideration. It is like the editor of a paper,—when he publishes anything he wants the people to read it and consider it for themselves whether he agrees with it or not.

Q You say that is a Journal of Fact? A Yes.

Q There is an article right there at the top of that page, "The North Carolina", read that.

A "THE NORTH CAROLINA.

At the commissioning of the North Carolina, the \$70,000,000 and 35,000-ton battleship, the printed program said it is to be a "Good Church ship". The chaplain prayed for it, and John McNulty, reporter for the New York Daily News, said that when he did so the waves "seemed to be beckoning, like calling a fighter from his corner in the prize ring." And

'so endeth the reading of the morning lesson.'

You may get into the Kingdom without a sense of humor, but you are missing a lot of fun. Men were made to laugh."

Q And that is published here in this magazine by your Publishing Company about the commissioning of the \$70,000,000 North Carolina battleship? A Yes.

Q Is that an editorial quoted from some other paper?

A Part of it is.

Q Does it say it is quoted from another paper?

A Part of it was quoted by a reporter of the New York Daily News.

Q Was that last paragraph quoted from a Daily Newspaper, or from the New York Daily News, or is that some of the facts put out by the publishers of this Book?

A —

Q You said, I believe, you don't agree with everything in those books, or magazines? A I do not.

Q Does that keep you from putting them out?

A It is up to a person as to whether they agree with something.

Q You are willing to put out things for people to read and listen to if it is construed, or misconstrued, to mean disrespect for our Flag, are you?

A I'm not responsible for that.

Q At any time in your work, have you found anything in any of your literature that has caused you to refuse to put it out? A No.

Q Whatever comes out in your literature you stick it out and distribute it for the purpose of having people to read it—that is what you said awhile ago, that that was your purpose, didn't you? A Yes.

Q That's all.

RE-DIRECT EXAMINATION BY MR. CLARK:

Q Is it your purpose when you hand out the magazines for the people to take it and read every article or quotation in it; do you want them to read every line of it from one

end to the other? A Yes.

Q Do you want them to believe every line from one end to the other?

A No, it is merely for their consideration.

Q Do you believe it all?

A No, sir. I put it out to be considered by the people just like a newspaper publishes quotations from Hitler—it is merely for their consideration.

Q Have you put out books that quoted Hitler and the Pope—Miss Benoit, do you believe that article there from the quotation of the Catholic Journalist?

A No. I have put out publications with quotations from Hitler and the Pope, but that doesn't mean that I believe it. That is the freedom of the press—to be able to read it and consider it.

Q Do newsboys put out newspapers because they believe everything in them?

BY MR. DALE: We object; that has nothing to do with this.

BY THE COURT: That is too far afield. SUSTAINED.

Q All right, Miss Benoit, is there anything else you want to tell the Jury? Just go ahead if there is.

BY MR. DALE: She can answer any questions: but we don't think it is right for her to say anything else to the Jury she feels like saying.

Q All right then, Mr. Dale. I want to ask you this question, Miss Benoit, in that editorial of the Lewiston Daily Sun, which you say you did not put out, do you believe that editorial of the Lewiston Daily Sun? He referred to the Flag Salute rule and maybe one statement he made referred to the Flag as being contemptible; do you think that is the truth?

BY MR. DALE: We object to that, if the Court please.

Q Do you agree with that statement?

BY MR. DALE: If the Court please, we object to that.

BY THE COURT: Overruled. BY MR. DALE: We except.

A No, sir. For instance the Consolation published that

article by that editor and I certainly don't think the Flag is contemptible. I consider it an emblem of freedom of this Country. I do not agree with everything the magazine says; I merely put it out as I said for the consideration of the people. Why, things like that are published every day in the newspapers—

BY MR. DALE: Just answer the question, Miss Benoit, and don't lecture the Jury.

Q That's all.

RE-CROSS EXAMINATION BY MR. DALE:

Q I notice he asked you if you thought the flag is contemptible, but he didn't ask you if you thought the rule requiring the Flag to be saluted is contemptible; what do you say about that? You don't think the rule requiring the Flag salute is contemptible?

A The rule requiring and commanding you to salute it?

Q Yes; you said you didn't think the Flag is contemptible, but you just won't go to town when it comes time to salute the Flag, will you?

A A woman is not required to salute the Flag.

Q That's all.

(WITNESS DISMISSED)

MRS. VIOLET BABIN: is recalled to the stand for **FURTHER CROSS** examination as follows, to-wit:

FURTHER CROSS EXAMINATION BY MR. DALE:

Q Do you own a brief-case? A Yes.

Q What kind do you own?

A One with two handles that you take in your hand.

Q What color is it?

A White and black.

Q How does it fasten?

A With a zipper, I think.

Q You don't have it with you? A No.

Q You don't remember whether it has a zipper top or

not? A I think it has.

Q Well, do you know? A Yes, it does.

Q When you and Miss Betty Benoit were in jail back in April, did you have your brief-case with you?

A I think the officers took it away from us.

Q Both of them? A I think so.

Q Did you have any literature in yours?

A I think so. We had the literature we were working with.

Q How far back were the dates of the issues you had? Did you have any issues of the Consolation in it?

A Not that I remember.

Q You don't say you didn't have this very one right there, December 10th, do you? Will you say you did or did not have that one dated December 10th in your brief-case when you were in jail out here in April?

A I had the current issues.

Q Did you have that one?

A I couldn't have if I had the current issues.

Q Did you have one dated December—anytime in December—in your zipper brief-case when you were in jail in April? A Not that I know of.

Q Did you or not?

BY MR. CLARK: She has answered the question.

A I don't know whether I did or didn't.

Q You will not deny that you did?

A I can't say whether I did or not.

Q You will not deny that this very magazine here dated December 10th, 1941, was taken from your zipper brief-case while you were in jail in April?

A I can't tell you if it was there or not. I couldn't say.

Q If it wasn't in there it couldn't have been taken out of it, could it? A I don't know.

Q You will not say it was not, will you?

A I couldn't say it was or wasn't.

RE-DIRECT EXAMINATION BY MR. CLARK:

Q Is it a fact you could have had this issue even for your own study or own reading and not be distributing it?

A That is correct. We usually distribute the current issues.

Q You could have been reading it while the other girl was working? A Yes.

Q You were not working with old Magazines like that?

BY MR. CALLENDAR: We object to that. It is leading to say the least.

Q Well, were you working with this issue, or this other issue, at any time since you've been here? A No.

Q You could have had an issue like that in your brief-case for your own use? A Maybe I could have.

Q That's all.

RE-CROSS EXAMINATION BY MR. DALE:

Q If you could have had that one you could have had one dated January 21st, 1942 too, couldn't you?

A I couldn't say, but I didn't put it out at Annie Felix's.

Q That's all.

RE-DIRECT EXAMINATION BY MR. CLARK:

Q If you had one like this for your own purpose and use, did you work with that kind of magazine from time to time in the City of Columbia? A I did not.

Q Did you leave that magazine at Annie Felix's house?

A No, I did not.

RE-CROSS EXAMINATION BY MR. DALE:

Q Have you at any time handled that issue of the magazine? A Yes, in January.

Q So that, you have handled this very magazine?

A In the month of January when it was a current issue.

Q There is no doubt that you have had that magazine in your possession and distributed it? A Yes, I have.

RE-DIRECT EXAMINATION BY MR. CLARK:

Q Where were you in January?

A Brookhaven, Mississippi.

Q And if you distributed it anywhere it was in Brookhaven, was it? A Yes.

Q How many did you get of that current issue?

A Seven.

Q How many? A Seven of each two times a month.

Q Is that the main book you distributed?

A The Children book and End of Axis Powers is what we were working with in January. The Hope booklet came out in April and since that time we have been working with Hope and Children.

Q Does your Company direct you in that kind of work?

A Yes.

Q They tell you what kind of books to distribute?

A Yes.

Q Tell how the Company directs you to work?

BY MR. DALE: We object to how the Company directs them to work.

BY THE COURT: Sustained.

Q That's all.

(WITNESS DISMISSED)

(DEFENDANT RESTS)

(STATE RESTS)

(JURY RETIRES)

BY MR. CLARK: Comes the Defendant, by her Attorney of record, and moves the Court to direct the Jury to bring in a verdict of NOT GUILTY.

BY THE COURT: OVERRULED. BY MR. CLARK: We except.

(JURY RETURNS)

Reporter's Certificate

I, Uhl Poole Fornea, Official Court Reporter in and for the Fifteenth Judicial District of the State of Mississippi, do hereby certify that the above and foregoing pages contain a full, true, and correct transcript of my stenographic notes taken on the trial of the cause of STATE OF MISSISSIPPI vs. BETTY BENOIT, No. 1826, charged with Distributing Prohibited Printed Matter, on the docket of the Circuit Court of Marion County, Mississippi.

I do further certify that I have this day mailed to HON. SEBE DALE, District Attorney, Columbia, Miss., and HON. BERNARD CALLENDAR, County Attorney, Columbia, Miss., Counsel for STATE and to HON. G. C. CLARK, Waynesboro, Miss., Counsel for the Defendant, the following letter, to-wit:

"You are hereby notified that I have this day filed with Mr. J. O. Tolar, Clerk of the Circuit Court of Marion County, at Columbia, Miss., the original and carbon copy of my stenographic notes taken on the trial of STATE vs. BETTY BENOIT, charged with Distributing Prohibited Printed Matter, No. 1826 on the docket of said Court."

I do further certify that my fee is \$14.25.

This the 17 day of July A. D. 1942.

Uhl Poole Fornea
Official Court Reporter

Verdict of Jury

We the ~~jury~~ find the defendant guilty as charged.

Filed

June 23, 1942

J. O. Tolar,

Clerk

Judgment of the Court

No. 1826

THE STATE OF MISSISSIPPI

v.

MISS BETTY BENOIT

Charge, Distributing Prohibited Printed Matter

Comes the District Attorney who prosecutes the pleas for the State of Mississippi and announces ready for trial. Comes also the defendant, Miss Betty Benoit, in her own proper person accompanied by her Attorney, Hon. G. C. Clark, and she being arraigned on an indictment charging her with the crime of DISTRIBUTING PROHIBITED PRINTED MATTER, and being required to plead to said charge entered a plea of "NOT GUILTY."

Whereupon, came a jury of twelve good and lawful men of Marion County, Mississippi, to-wit: Enos Langston and eleven others, of the regular pannel for the week, who were accepted by the State and by the defendant to well and truly try the issue joined, and after hearing all the evidence and argument of counsel and receiving the instructions of the Court they retired to consider of their verdict and returned into open Court with the following verdict to-wit: "WE THE JURY FIND THE DEFENDANT GUILTY AS CHARGED IN THE INDICTMENT."

Whereupon, the defendant was placed at the bar and was asked by the Court if she had anything to say in bar of sentence, says naught.

Whereupon, it is considered and so ordered by the Court that the defendant, Miss Betty Benoit, for the said crime of **DISTRIBUTING PROHIBITED PRINTED MATTER** be and she is hereby sentenced to serve a term for the duration of the war and not to exceed **TEN YEARS** in the Mississippi State Penitentiary, and she stands committed.

Motion for Appeal

No. 1826

Motion to the Circuit Court for an Appeal.

THE STATE OF MISSISSIPPI

v.

MISS BETTIE BENOIT

In the Circuit Court of Marion County, Miss.,

Fifteenth Judicial District June Term, 1942.

Comes the above named defendant, Bettie Benoit, in the above styled cause, by her attorney and prays an appeal with supersedeas to the next term of the Supreme Court of the State of Mississippi, and tenders herewith a good and sufficient bond for such appeal.

Bettie Benoit

By G. C. Clark

Attorney for defendant.

Filed

6/23/42

J. O. Tolar,
Circuit Clerk

Order Allowing Bail Bond

No. 1826

THE STATE OF MISSISSIPPI

v.

MISS BETTY BENOIT

Charge, Distributing Prohibited Printed Matter

Comes now the defendant on Motion to be allowed a

bail bond to await the action of the Supreme Court of the State of Mississippi, and after considering said Motion, the Court is of the opinion that said Motion should be sustained.

Whereupon, it is the order of the Court that the defendant be allowed bail and the bond to be made in the sum of \$1500.00 to be approved by the Sheriff of Marion County, Mississippi.

Petition to the Circuit Clerk for an Appeal

No. 1826

IN THE CIRCUIT COURT OF MARION COUNTY,
MISSISSIPPI FOR THE FIFTEENTH JUDICIAL
DISTRICT, JUNE TERM, 1942.
THE STATE OF MISSISSIPPI

v.

BETTIE BENOIT, *Defendant*

TO THE CIRCUIT CLERK OF MARION COUNTY,
MISSISSIPPI.

Your petitioner, the undersigned respectfully state that at the June Term 1942 of the Marion County Circuit Court on the day of June, 1942, defendant was convicted of Sedition and violating House Bill 689 of the Regular Legislative Session, 1942, and sentenced to the State Penitentiary until the United States signs a peace treaty with Japan, Germany and Italy, not exceeding ten years. Feeling aggrieved at this conviction, they pray an appeal to the Supreme Court and tender herewith good and valid appeal bonds and affidavits of inability to make cost bond or to deposit sufficient amount of cash with the clerk of this court to pay cost in this case and ask that an appeal be granted.

Bettie Benoit

By G. C. Clark

Attorney for Defendant

Filed this the 23 day of June, 1942.

J. O. Tolar

Clerk.

**Notice to Court Reporter
to Prepare Record for Supreme Court**

No. 1826

IN THE CIRCUIT COURT OF MARION COUNTY,
MISSISSIPPI FOR THE FIFTEENTH JUDICIAL
DISTRICT, JUNE TERM, 1942.
THE STATE OF MISSISSIPPI

v.

BETTIE BENOIT, *Defendant*

I do hereby hand you this notice to prepare record for Supreme Court from your stenographic notes in the above styled and numbered cause.

The defendant has petitioned and obtained an appeal in said case, this the day of June, 1942.

Bettie Benoit

Defendant

By G. C. Clark

Attorney for Defendant

I have this June 23, 1942 received the above notice of appeal in above styled cause.

Uhl Poole Fornea

Court Reporter

**Appeal on Affidavit of Inability to Give Cost Bond,
or Deposit Amount of Cost from Circuit Court
in Criminal Cases**

No. 1826

IN THE CIRCUIT COURT OF MARION COUNTY,
MISSISSIPPI FOR THE FIFTEENTH JUDICIAL
DISTRICT, JUNE TERM, 1942.
THE STATE OF MISSISSIPPI

v.

BETTIE BENOIT, *Defendant*

I, Bettie Benoit, do solemnly swear that I am unable to give a cost bond or to deposit a sufficient amount to cover

all cost and feeling aggrieved by the judgment and conviction of violating House Bill 689 of the Regulative Session 1942, and sentenced to serve in the State Penitentiary until a treaty of peace is made between United States and Japan, Germany and Italy as rendered against me in the Circuit Court of Marion County at the June Term, 1942 on the day of June, 1942. I desire an appeal to the Supreme Court, with stay of judgment.

Betty Benoit
Defendant

Sworn to and subscribed before me on this the 23 day of June, 1942.

J. O. Tolar,
Circuit Clerk

(SEAL)

Agreement of Attorneys to File Original Exhibits

THE STATE OF MISSISSIPPI

v.
MISS BETTIE BENOIT

It is agreed by and between the State of Mississippi represented by Bernard Callender, County Attorney, and Sebe Dale, District Attorney, and the defendant herein represented by Honorable G. C. Clark, Attorney at Law and Attorney of Record and defendant herein named that exhibits in this said case may be sent in the original form to the Supreme Court of the State of Mississippi as a part of the record herein, the same as if fully copied in the records as have been the stenographers notes of the present record, and as such and in such manner shall for all purposes be a part of this record to be considered by the Supreme Court.

It is understood, of course, that some of said exhibits are so short that it is more practical to send copies, but in all instances where such exhibits are too long to be copied

such original exhibits may be noted in the record, and for all purposes be a part of the record on appeal.

Agreed this the day of July, 1942.

State of Mississippi by
Bernard Callender
County Prosecuting Attorney

Miss Bettie Benoit by

G. C. Clark
Attorney of record for Defendant

Appearance Bond to Await Action of Supreme Court

No. 1826

STATE

v.

BETTIE BENOIT

**STATE OF MISSISSIPPI, MARION COUNTY
IN THE CIRCUIT COURT OF MARION COUNTY,
JUNE TERM, 1942**

KNOW ALL MEN BY THESE PRESENTS:

That, we, Bettie Benoit, Principal and G. C. Clark, Jack Clark, and U. Lowery, sureties, all residents of the State of Mississippi are held and firmly bound unto the State of Mississippi in the penal sum of Fifteen Hundred dollars for which payment well and truly to be made, we jointly and severally bind ourselves, our administrators, heirs, and executors forever.

The condition of the foregoing obligation is such that whereas in the Circuit Court of Marion County on the 23 day of June, 1942, the defendant Bettie Benoit, was convicted of the alleged crime of sedition and of violating House Bill 689 of the 1942 Session of the Legislature and sentenced to serve in the State Penitentiary for the duration of the war but not to exceed ten years and the said Bettie Benoit feeling aggrieved by said conviction and judgment has prayed and obtained an appeal to the Supreme Court.

Now if the said Bettie Benoit shall appear in the Supreme Court and Circuit Court, and abide by and perform such sentence or judgment as may be rendered then this obligation to be void; otherwise to remain in full force and effect.

Given under our hands this the 20 day of June 1942.

U. Lowery, Jack Clark, Betty Benoit, Principal, G. C. Clark, Sureties.

The financial value of this U. Lowery bond is more than one thousand five hundred dollars, and if presented in Wayne County, Miss. I would approve same.

C. L. Westover

Sheriff Wayne Co. Miss.

The foregoing bond approved this the 23rd day of June, 1942.

O. J. Foxworth

(On Back)

This Bond is Worth over \$2000.00 above the Legal exemptions.

E. E. Sigler

Chancery Clerk.

Clerk's Certificate

No. 1826

THE STATE OF MISSISSIPPI

v.

BETTIE BENOIT

I, J. O Tolar, do hereby certify that I have made and am now filing in the records of the above styled cause a true and correct transcript of all the pleadings and other records required of me in connection with this cause.

Witnessed my hand and official seal this the day of July, A. D. 1942.

J. O. Tolar

Circuit Clerk

Assignment of Errors

No. 35163
MISSISSIPPI SUPREME COURT
THE STATE OF MISSISSIPPI

v.

BETTY BENOIT, *Appellant*

Now comes appellant and assigns the following as error in the lower court, to-wit:

ONE

The court erred in refusing and overruling appellant's motion to quash the indictment duly and timely filed with the clerk and presented to the court in the manner required by law. Each ground of said motion is made a part of this assignment of error. Said motion appears in the typewritten record and is incorporated herein and made a part hereof as though written at length herein.

TWO

The court erred in refusing and overruling appellant's demurrer to the indictment duly and timely filed with the clerk and presented to the court in the manner required by law. Each ground of said demurrer is made a part of this assignment of errors. Said demurrer appears in the typewritten record and is incorporated herein and made a part hereof as though written at length herein.

THREE

The court erred in refusing and overruling appellant's motion for peremptory instruction requesting the trial court to exclude the evidence of the State and instruct the jury to return a verdict for appellant, which motion was duly and timely filed with the clerk at the close of State's evidence and presented to the court in the manner required by law. Each ground of said motion for peremptory instruction is made a part of this assignment of errors. Said

motion appears in the typewritten record and is incorporated herein and made a part hereof as though written at length herein.

FOUR

The court erred in refusing and overruling appellant's motion for a directed verdict requesting the trial court to exclude all the evidence and instruct the jury to return a verdict for appellant, which motion was duly and timely filed with the clerk at the close of all the evidence and presented to the court in the manner required by law. The motion for directed verdict reads, omitting formal parts, as follows:

Now comes the above named defendant, Betty Benoit, in the above entitled and numbered cause and files this her MOTION FOR DIRECTED VERDICT, and as grounds therefor says:

ONE

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session 1942, is void on its face and unconstitutional because Section 1 thereof deprives the citizens and residents of Mississippi, and particularly this defendant, of their rights of freedom to worship Almighty God according to the dictates of conscience, freedom of press and freedom of speech, contrary to Sections 13, 14, 18 and 32 of the Constitution of the State of Mississippi, the First Amendment to the United States Constitution, and Section 1 of the Fourteenth Amendment to the United States Constitution.

TWO

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session 1942, is unconstitutional as construed and ap-

plied to the activity of this defendant because Section 1 thereof deprives this defendant of her inherent rights of freedom to worship Almighty God according to the dictates of conscience, freedom of press and freedom of speech, contrary to Sections 13, 14, 18 and 32 of the Constitution of the State of Mississippi, and the First Amendment and Section 1 of the Fourteenth Amendment to the United States Constitution.

THREE

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session 1942, is unconstitutional because Section 1 thereof is unreasonable and in excess of the police powers of the State of Mississippi, thereby permitting the denial of liberty without due process of law, contrary to Section 14 of Article 3 of the Mississippi Constitution and Section 1 of the Fourteenth Amendment to the United States Constitution.

FOUR

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session 1942, is unconstitutional because Section 1 thereof is vague, too general, indefinite, and permits speculation on the part of the jury and court trying the cause, thus constituting a dragnet, both on its face and as construed and applied, all contrary to Section 14 of Article 3 of the Mississippi Constitution and Section 1 of the Fourteenth Amendment to the United States Constitution.

FIVE

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session 1942, is unconstitutional because Section 2

thereof is unreasonable and in excess of the police power of the State, and is vague, indefinite and a dragnet, in violation of Section 1 of the Fourteenth Amendment to the United States Constitution.

SIX

The statute under which the indictment is drawn, known as House Bill 689 of the Regular Legislative Session 1942, is unconstitutional because the entire statute denies equal protection of the laws and discriminates between classes contrary to Section 1 of the Fourteenth Amendment to the United States Constitution.

SEVEN

The indictment fails to allege any facts or circumstances showing the commission of any public offense or the violation of any law of the State of Mississippi.

EIGHT

The State has wholly failed to offer any evidence whatsoever as to the defendant's guilt, and the undisputable evidence shows that the defendant is not guilty of violating any law of the State of Mississippi, and is not guilty of the act charged in the indictment.

WHEREFORE defendant prays that upon consideration hereof the Court instruct the jury to acquit the defendant and by their verdict say, "We the jury find the defendant not guilty," and render a judgment dismissing the indictment and discharging the defendant with her costs, and defendant prays for such other and further relief as she may show herself justly entitled to.

FIVE

The verdict of the jury is contrary to law.

SIX

The verdict of the jury is not supported by any evidence.

SEVEN

The judgment of the court is contrary to the law and the evidence.

EIGHT

The undisputed evidence shows that appellant is not guilty.

NINE

The statute in question is unconstitutional on its face because, by its terms, it denies and deprives persons in Mississippi of their rights of freedom of press and freedom of speech, contrary to Sections 13, 14, 18 and 32 of the Constitution of the State of Mississippi and Amendments 1 and 14 to the United States Constitution.

TEN

The statute in question as construed and applied to the facts and circumstances is unconstitutional and denies appellant her rights of freedom of conscience, of press, of speech and of worship of Almighty God, contrary to Sections 13, 14, 18 and 32 of the Constitution of the State of Mississippi and Amendments 1 and 14 to the United States Constitution.

ELEVEN

The statute in question, both on its face and as construed and applied, violates the *due process* and the *equal protection* clauses of the Fourteenth Amendment to the United States Constitution, and is contrary to Sections 14 of Article 3 of the Mississippi Constitution, because it is vague, indefinite, uncertain, too general, does not furnish a sufficiently ascertainable standard of guilt, enables the court

and jury trying the indictment to speculate, permits arbitrary and discriminatory action and amounts to a dragnet, thus depriving appellant of her liberty without equal protection and due process of law.

TWELVE

The statute in question is in excess of the police power of the State because it unlawfully invades the realm of legislation impliedly delegated to the Federal Government. The statute is superseded by federal legislation pertaining to the United States flag, the present national emergency and the war now being waged between the Axis powers and the United States Government, and therefore duplicates federal legislation and encroaches upon federal powers, and thus deprives appellant of her rights in violation of the United States Constitution.

THIRTEEN

The State wholly failed to offer any evidence to show guilt on the part of appellant, since the undisputed evidence showed that appellant was not guilty of the acts charged in the indictment. The State wholly failed to show that the literature distributed by appellant was calculated to encourage disloyalty to the Government, caused racial distrust, disorder, prejudice or hatreds, or reasonably tended to create an attitude of refusal to salute the flag.

FOURTEEN

Appellant hereby reserves the right to amend the assignment of errors, incorporating and including additional errors reflected in the record at a time before the term begins at which this case will be argued.

G. C. CLARK
GROVER C. POWELL
HAYDEN C. COVINGTON
Attorneys for Appellant

CERTIFICATE

I, Hayden C. Covington, attorney for appellant in the above styled cause, do hereby certify that I have this day mailed a true copy of the above and foregoing assignment of errors, postage prepaid, to Honorable Greek L. Rice, Attorney General of the State of Mississippi, at his official Post Office address in Jackson, Mississippi.

Witness my signature, this 3d day of September 1942.

HAYDEN C. COVINGTON
Attorney for and of counsel
for appellant

Docket Entries**GENERAL DOCKET C-C, SUPREME COURT OF
MISSISSIPPI**Case No. 35163 *Betty Benoit vs State*

Circuit Court, Marion County

Record & p.o. filed 8/6/42

Assignment Errors—G. C. Clark, G. C. Powell, Hayden Covington 9/7/42

Carbon Copy Assignment Errors—G. C. Clark, G. C. Powell, Hayden Covington 9/7/42

Petition for Writ of Certiorari—Hayden Covington 10/26/42

Stipulation—G. C. Clark, Hayden Covington, Geo. H. Ethridge 10/26/42

Petition for Writ of Certiorari Sustained 11/2/42
BH 51A

Writ issued 11/11/42

6 Exhibits—5 copies "Consolation" 1 "Hope" 8/6/42

Brief of Appellant—Hayden C. Covington, et al 11/21/42

6 Carbons Brief of Appellant—Hayden C. Covington, et al 11/21/42

Stipulation as to record: Geo. H. Ethridge—Hayden C. Covington 11/21/42

Submitted 11/23/42 BH 63B

3 copies Brief for State—Geo. H. Ethridge 11/25/42

Exhibits: 6 copies "Hope" 12/4/42

Affirmed 1/25/43 BH 90 In Banc

Petition for Stay, pending appeal to U. S. Court: Hayden C. Covington, G. C. Clark 2/1/43

Carbon Petition for Stay, pending appeal to U. S. Court: Hayden C. Covington, G. C. Clark 2/1/43

Bond for Appeal to U. S. Court 2/2/43

Order Staying Judgment 2/2/43

Opinions

IN THE SUPREME COURT OF MISSISSIPPI IN BANC: No. 35163

(Opinion Rendered January 25, 1943)

BETTY BENOIT *v.* STATE OF MISSISSIPPI
GRIFFITH, J.

In this case the roof on behalf of the State is in our opinion sufficient to sustain the verdict of conviction and establishes that a companion of the appellant, who was jointly indicted with her, actually distributed and delivered to one of the state witnesses and in the presence of the appellant the particular pamphlet of literature mentioned in the indictment and entitled "Consolation", as a "Journal of Fact," and that both the appellant and her companion admitted to an officer, a witness for the state, that they were distributing this literature. This so-called "Journal of Fact" contained, among other articles, an editorial from the Lewiston Daily Sun which charged, among other things, that "what that flag salute amounts to is a contemptible, primitive worship", and also that saluting the flag is a "pitiful mockery of education." The pamphlet also contains other language undertaking to create prejudice against and disloyalty to, the American flag among Protestant people by charging that the salute to the flag "originated in the Catholic schools of France", and that saluting in the United States "has covertly been pushed by the Catholic Hierarchy here."

We are of the opinion that what the appellant was found guilty by the jury of doing was in violation of Chapter 178, General Laws of Mississippi 1942, and that this case is governed by the controlling opinion in R. E. TAYLOR *v.* State, No. 35,143, and by both the main and concurring opinions in the case of Clem Cummings *v.* State, No. 35,143, this day decided.

AFFIRMED.

IN THE SUPREME COURT OF MISSISSIPPI
 IN BANC:
 No. 35,163
 (Opinion rendered January 25, 1943)

BETTY BENOIT *v.* STATE

SMITH, C. J., dissenting.

It will be necessary for me to state this case in order that one not familiar with the record may know to what questions this opinion is addressed. This indictment charged the appellant with violating that provision of Chapter 178, Laws of 1942, which prohibits oral, written, printed or photographic preaching or teaching "which reasonably tends to create an attitude of stubborn refusal to salute, honor or respect the flag or government of the United States or the State of Mississippi". The overt act charged in the indictment and to which the State directed its evidence is the distribution by the appellant of a certain publication or journal entitled "Consolation" a Journal of Fact, Hope and Courage", which contained an article under the caption "Public Opinion in Maine", which will be set forth in a footnote hereto.*

The appellant is a member of an organization known as Jehovah's Witnesses, the members of which are spreading their conception of the Gospel from person to person and house to house. The journal referred to in the indictment is published monthly by the Watchtower Bible and Tract Society, Inc., of New York City, a Jehovah's Witness insti-

* "The Supreme Court decision supporting the legality of a Pennsylvania school board rule requiring children to salute the American flag would have been nearer right, nearer sound, if the Court had simply said that it is a matter of State jurisdiction.

"But see what a pitiful mockery of education that salute to the flag is!

"There is probably not one teacher in twenty,—not one teacher in twenty who can give you a comprehensive, adequate definition of what the flag stands for. What that flag salute rule amounts to is a contemptible, primitive worship. Those people who put such rules into the State law don't know what they are at work on.

"It is probable that not half a dozen members of any State Legislature

tution, and is distributed by the appellant in the course of the work in which she is engaged. The State's evidence discloses or rather the jury was warranted in finding therefrom, that the appellant went to the residence of Annie Felix and gave her a copy of the issue of this Journal containing the article set forth in the indictment. The record does not disclose that the appellant believes that to salute the flag violates God's Word, or that she so taught, consequently no question of religious liberty is here presented.

[Continued from preceding page]

can give an adequate definition of what the flag stands for.

"Can any legislator or any teacher give you a better definition of the flag than the emblem of American rights at sea and in foreign lands? That is, that the flag stands for what is precious to Americans outside America.

"Try another definition. Perhaps this definition is not so good now as it was ten years ago, but say down to ten years ago, the stars and stripes stood for the Supreme Court of the United States.

"As a matter of history it is not too far to say that the Supreme Court of the United States has been the great defender of the American citizen's individual liberty and initiative, of his rights of property, of his right to protection of the laws.

"But the fundamental of that saluting the flag religion is its utter contradiction of good education. What it amounts to is a required worship by the children that don't know what they are worshiping. They never will learn by that kind of tyranny.

"See how much more patriotic it would be if our teachers were given the proper opportunity to help their children to understand the government under which they live. Help them to understand the great principles of the law of the land, the great principles of the common law that the fathers brought over with them when they came from England.

"To help the children to understand what is the law of the land, what are the rights of an American citizen, to understand what police protection they are entitled to, to understand how their rights can be vindicated in the courts. And especially to understand the function of the court, what the court does for the citizen.

"To help the children to understand the duties of government; and how those duties are divided to the city, the State government, the Federal Government.

"It is good that the Supreme Court of the United States is not going over the country to tell the States what they can do about the flag.—Lewiston Daily Sun." Which said publication or journal also contained an article under the caption "French Catholics Start Flag Salute", in the following words, to wit:

"A dispatch from Monte Carlo says, 'The salute to the flag ceremony, now a daily event in all French schools, originated in the Catholic schools of France.' The type of mind that finds satisfaction in worshiping images would also be most inclined toward emblem worship of various kinds. The item confirms the claim that flag saluting in the United States has covertly been pushed by the Catholic Hierarchy here."

The salute of flag provision of this statute may violate, on its face, the constitutional guaranties of freedom of speech and of the press, but it is subject to the criticism that a sufficiently ascertainable standard of guilt can not be found in the words "honor or respect the flag or government of the United States or of the State of Mississippi", Herndon v. Lowry, 301 U. S. 242, 81 L. Ed. 1066, and for that reason should be held to be invalid.

The question presented on the merits of the case is: Is the article, set forth in the indictment and appearing in the issue of the Journal, entitled "Consolation," etc. given by the appellant to Annie Felix within the condemnation of the statute? This article is not addressed to voluntary saluting of the flag, but is simply a vigorous protest, giving reasons therefor, against statutes and school by-laws requiring public school children to salute the flag, and against a decision of the Supreme Court of the United States upholding such a requirement. This the statute does not and could not constitutionally forbid, for full and free public discussion of such matters is well within the constitutional guaranty of freedom of speech and of the press. Sullens v. State, 191 Miss. 856, 4 So. 2d. 356. These guaranties are not only for the protection of individual but are also for the protection of the public in its right, fundamental in a democracy, to have the benefit of full and free discussion of governmental policies and of the conduct of government officials, cite authority for which would be supererogatory. The appellant's request for a directed verdict of not guilty should have been granted.

Alexander and Anderson, JJ., concur in this opinion.

IN THE SUPREME COURT OF MISSISSIPPI
IN BANC:
No. 36163

(Opinion rendered January 25, 1943)

BETTY BENOIT *v.* THE STATE

ALEXANDER, J., dissenting.

It seems to me that the momentum engendered by the views expressed in the controlling opinions in the companion cases (*Taylor v. State* and *Cummings v. State*, decided this day) should have been checked before encompassing the appellant here.

From the pamphlet "Consolation", made the basis of a fear of revolution or sedition, it may be safely assumed that the State has culled its most potent paragraphs. These selections are set forth in the indictment and quoted in other opinions herein. In comparing these vaporings with the daily utterances of our metropolitan press and of men in high places, it becomes difficult to reconcile the internment of the one and applause of the other with an equal protection of the law.

In this connection, attention is called to the fact that part of the language charged to be subversive is quoted from the press, the Lewisburg Daily Sun. No pains have been taken to disclose whether this widely distributed publication has felt the heavy hand of judicial restraint. It serves to emphasize that to invest oneself with an aura of sophistication is a guaranty of immunity. The ill-advised designation of this prohibition of the compulsory salute by pupils in schools as a "pitiful mockery of education" is hardly less positive and much less authoritative than the expression of the Court in *Barnette v. Board of Education* (decided Oct. 6, 1942 by a three-judge federal court) that its compulsion against conscience "is a petty tyranny unworthy of the spirit of this Republic."

In addition to comments in the dissenting opinion in

Cummings v. State (decided this day) as to the effect of the war emergency, I take occasion to quote the following pertinent and persuasive paragraphs:

"In a time of crisis, particularly, when the things we hold most dear are threatened, we shall find the desire to throw overboard the habits of tolerance, almost irresistible." "I can think of no revolutionary period in history when a government has gained by stifling the opinion of men who did not see eye to eye with it; and I suggest that the revolutionary insistence that persuasion is futile finds little creative evidence in its support." "It is evident from our experience that to limit the expression of opinion in wartime to opinion which does not hinder its prosecution is, in fact, to give the executive an entirely free hand, whatever its policy, and to assume that, while the armies are in the field, an absolute moral moratorium is imperative. That is, surely, a quite impossible position. No one who has watched at all carefully the process of governance in time of war can doubt that criticism was never more necessary. Its limitation is, in fact, an assurance that the unity of outlook is a guarantee that mistakes will be made and wrong done. For once the right to criticise is withdrawn, the executive commits all the natural follies of dictatorship." "Freedom of speech, therefore, in wartime seems to me broadly to involve the same rights as freedom of speech in peace. It involves them, indeed, more fully because a period of national trial is one when, above all, it is the duty of citizens to hear their witness." Laski, *Liberty in the Modern State*, pp. 56-57, 115, 123, 124-125.

Our solicitude should include the danger that in repressing fundamental rights we may lose the war upon our own home front. The conduct of the war is, of course, directed toward its success; but success means not only winning the fight but not losing our freedom.

I realize the difficulty of restricting the bases for decision to the particular case disclosed by the record before us,

as well as the self-control necessary to exclude personal predilections from judgments which should be justified solely by the applicable law. To do otherwise is to destroy the defendant with the very sword with which she had sought to protect her rights. "A judge would err if he were to impose upon the community as a rule of life his own idiosyncrasies of conduct or belief." Cardozo, *The Nature of the Judicial Process*, p. 108.

The absence of a definite legal yardstick by which to measure appellant's 'disloyalty' is as important here as in the other cases mentioned. At the expense of repetition, the opinions voiced must bear fruitage in conduct and such conduct must threaten a clear and present danger, and such danger must be that the functions of the government will be overthrown by force or violence or that mutiny or insubordination be engendered in our armed forces. "A man may have as bad a heart as he chooses, if his conduct is within the rules. In other words, the standards of the law are external standards, and, however much it may take moral considerations into account, it does so only for the purpose of drawing a line between such bodily motions and rests as it permits, and such as it does not. What the law really forbids, and the only things it forbids, is the act on the wrong side of the line, be that act blameworthy or otherwise. Again, any legal standard must, in theory, be one which would apply to all men, not specially excepted, under the same circumstances. It is not intended that the public force should fall upon an individual accidentally, or at the whim of any body of men. The standard, that is, must be fixed." . . . "Finally, any legal standard must, in theory, be capable of being known. When a man has to pay damages, he is supposed to have broken the law, and he is further supposed to have known what the law was." Holmes' *Common Law*, at p. 110-111.

The Chief Justice and Judge Anderson concur in this opinion.

Judgment

IN THE SUPREME COURT OF MISSISSIPPI

MONDAY MORNING, JANUARY 25th, 1943

MINUTE BOOK BH—PAGE 90

Betty Benoit *vs.* State

No. 35163

This cause having been submitted at a former day of this term on the record herein from the Circuit Court of Marion County and this court having sufficiently examined and considered the same and being of the opinion that there is no error therein doth order and adjudge that the judgment of said Circuit Court rendered in this cause at the June 1942 Term—a conviction under Chapter 178 of the General Laws of Mississippi 1942 and a sentence to the State penitentiary for the duration of the war not to exceed 10 years—be and the same is hereby affirmed. It is further ordered and adjudged that the County of Marion do pay the costs of this appeal to be taxed, etc.

[Same Caption Omitted in Printing]

**Petition for Appeal, Statement,
Assignments of Error and
Prayer for Reversal**

Petition for Appeal

Being aggrieved by the final decision of the Supreme Court of the State of Mississippi, and the judgments of the courts below, in the above entitled cause, the appellant herein hereby prays that an appeal be allowed to the Supreme Court of the United States herein, and for an order fixing the amount of the bond thereon.

Statement

This case is one in which is challenged the validity of a statute of the State of Mississippi, known as Chapter 178, General Laws of Mississippi, which, when stripped of its preamble and sections 2, 3, 4, 5, 6 and 7, which are not involved, reads:

SECTION 1. Be it enacted by the Legislature of the State of Mississippi, That any person who individually, or as a member of any organization, association, or otherwise, shall intentionally preach, teach, or disseminate any teachings, creed, theory, or set of alleged principles, orally, or by means of a phonograph or other contrivance of any kind or nature, or by any other means or method, or by the distribution of any sort of literature, or written or printed matter, designed and calculated to encourage violence, sabotage, or disloyalty to the government of the United States, or the State of Mississippi, or who by action or speech, advocates the cause of the enemies of the United States

or who gives information as to the military operations, or plants of defense or military secrets of the nation or this State, by speech, letter, map or picture which would incite any sort of racial distrust, disorder, prejudices or hatreds, or which reasonably tends to create an attitude of stubborn refusal to salute, honor or respect the flag or government of the United States, or of the state of Mississippi, shall be guilty of a felony and punished by imprisonment in the state penitentiary until treaty of peace be declared by the United States but such imprisonment shall not exceed ten years."

This statute was duly passed and approved by the Legislature of the State of Mississippi and is here drawn in question upon the ground that said statute is repugnant to the First and Fourteenth Amendments to the United States Constitution. The Supreme Court of the State of Mississippi is the court of last resort in this cause in the State of Mississippi in which a decision could be had and the decision of that court is in favor of the validity of said statute.

Therefore, in accordance with the rules of the Supreme Court of the United States (Rule 46, paragraph 2 [28 U.S.C. sec. 354]), appellant respectfully shows this Court that the case is one in which under the legislation in force when the Act of January 31, 1928 (45 Stat. L. 54) was passed, to wit, under Section 237 (a) of the Judicial Code (28 U.S.C., sec. 344), a review could be had in the Supreme Court of the United States on a writ of error as a matter of right.

The Supreme Court of the State of Mississippi, court of last resort in this cause in the State of Mississippi, rendered its decision herein on the 25th day of January, 1943, which became final on January 25, 1943, and by its said decision affirmed the judgment of the Circuit Court in said cause. The opinion of said Supreme Court of the State of Mississippi has not yet been officially reported but

is of record unofficially: *Benoit v. State of Mississippi*, So. 2d That opinion appears in the record at page 119, and will appear at 194 Miss.

The order and judgment of affirmance by said Supreme Court of the State of Mississippi entered in the office of the Clerk of the said Court on January 25, 1943, became a final judgment on the same day, the date when the opinions were filed in said cause.

Assignments of Error

Now comes appellant in the above cause and files here-with, together with said petition for appeal, these assignments of error, and says that there are errors committed by the courts below in the record and proceedings of the above entitled cause, and for the purpose of having the same reviewed in the United States Supreme Court, makes the following assignments:

FIRST: The Supreme Court of Mississippi erred in failing to reverse the judgment of the trial court because the court should have sustained appellant's motion to quash the indictment.

SECOND: The Supreme Court of Mississippi erred in failing to reverse the judgment of the trial court because the court should have sustained appellant's demurrer to the indictment.

THIRD: The Supreme Court of Mississippi erred in failing to reverse the judgment of the trial court because the court should have sustained appellant's motion for a directed verdict filed at the close of the State's evidence.

FOURTH: The Supreme Court of Mississippi erred in failing to reverse the judgment of the trial court because the court should have sustained appellant's motion for an instructed verdict filed at the close of all the evidence.

FIFTH: The Supreme Court of Mississippi erred in failing to reverse the judgment of the trial court because the court should have sustained appellant's motion for a new trial duly and timely filed.

SIXTH: The Supreme Court of Mississippi erred in failing to hold that the statute in question is unconstitutional on its face because, by its terms, it abridges appellant's rights of freedom of press and of speech contrary to the Constitution.

First and Fourteenth Amendments to the United States

SEVENTH: The Supreme Court of Mississippi erred in failing to hold that as construed and applied to the particular facts and circumstances of the case the statute in question is unconstitutional because as so construed and applied it abridges appellant's rights of freedom to worship ALMIGHTY GOD JEHOVAH, freedom of press and of speech contrary to the First and Fourteenth Amendments to the United States Constitution.

EIGHTH: The Supreme Court of Mississippi erred in failing to hold that on its face and as construed and applied the statute violates the due process and equal protection clauses of the Fourteenth Amendment to the United States Constitution because it is vague, indefinite, uncertain, too general, fails to furnish a sufficiently ascertainable standard of guilt, and enables the court and jury to speculate, and amounts to a dragnet so as to deprive appellants of liberty without equal protection and due process of law.

NINTH: The Supreme Court of Mississippi erred in failing to hold that there was no evidence that there existed a clear and present danger that the evils prohibited by the statute would result from the literature distributed by appellant or the words and conduct of appellant.

TENTH: The Supreme Court of Mississippi erred in failing to hold that the trial court committed error in refusing to give appellant's special requested instruction number 4.

ELEVENTH: The Supreme Court of Mississippi erred in failing to hold that the trial court committed error in refusing to give appellant's special requested instruction number 9.

Prayer for Reversal

For and on account of the above errors appellant prays that the said judgment of the Supreme Court of the State of Mississippi hereinabove described in the above entitled cause be reviewed by the Supreme Court of the United States and reversed, and a judgment rendered in favor of the appellant and for costs.

G. C. CLARK
HAYDEN C. COVINGTON
Attorneys for Appellant

[Same Caption Omitted in Printing]

"

Order Allowing Appeal

Appellant in the above entitled suit and cause has prayed for allowance of an appeal in this cause to the Supreme Court of the United States from the judgment made and entered by the Supreme Court of the State of Mississippi on the 25th day of January, 1943, affirming the judgment of the Circuit Court in said cause there titled, to wit, Betty Benoit, appellant v. State of Mississippi, appellee.

It appearing that the appellant in the assignments of

error and in said cause before argument attacked the statute in question on the grounds, as contended by appellant, that it unreasonably abridges freedom to worship ALMIGHTY GOD, freedom of conscience, of speech, of press, and that it is void because of vagueness, and in conflict with federal legislation on the same subject, and because there was not evidence to sustain the conviction, all of which contentions were overruled by decision and judgment of the said Supreme Court of the State of Mississippi previously rendered herein.

It appearing that appellant has presented and filed a petition for appeal to the Supreme Court of the United States, a statement, assignments of error and prayer for reversal and jurisdictional statement, all within three (3) months from date that said judgment of the Supreme Court of the State of Mississippi became final on January 25, 1943, pursuant to the statutes and the rules of the Supreme Court of the United States in such case made and provided,

IT IS NOW HERE ORDERED that an appeal be and the same is hereby allowed to the Supreme Court of the United States from the judgment of the Supreme Court of the State of Mississippi, and the said judgment of the Circuit Court, in aforesaid cause as provided by law, and,

IT IS FURTHER ORDERED that the Clerk of the Supreme Court of the State of Mississippi shall prepare and certify to the printed transcript of the record, proceedings and judgment in the said cause and transmit the same to the Supreme Court of the United States together with all exhibits in the original form, so that he shall have the same in said Court within twenty (20) days from date.

AND IT IS FURTHER ORDERED that security for costs on appeal be fixed in the sum of Two Hundred and Fifty (\$250.00) Dollars and appellant having heretofore presented and filed an undertaking in the sum of One Thousand (\$1000.00) Dollars executed by the National Surety Corporation, which provides for the appearance of the appellant to abide by the judgment of this court and

also to cover the costs of appeal to the United States Supreme Court which has been approved by the court, it is ordered that no additional bond to cover costs be required.

Dated, March , 1943.

SIDNEY SMITH
Chief Justice of the
Supreme Court of the
State of Mississippi

[Same Caption Omitted in Printing]

Citation

To THE STATE OF MISSISSIPPI and
Its Counsel of Record in the above-entitled cause,
and

To The Attorney General of the State of Mississippi
Greeting

You are hereby cited and admonished to appear at a Supreme Court of the United States, at Washington, in the District of Columbia, within twenty (20) days from the date hereof, pursuant to an appeal, filed in the Clerk's office of the Supreme Court of the State of Mississippi, where Betty Benoit is appellant and you are appellee, to show cause, if any there be, why the judgment rendered against said appellant as in the said appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable Sidney Smith, Chief Justice of the Supreme Court of the State of Mississippi, this . . . day of March, in the year of our Lord one thousand nine hundred and forty-three.

SIDNEY SMITH
Chief Justice of the
Supreme Court of the
State of Mississippi

Bond

[Filed 2/2/43 Tom Q. Ellis, Clerk.]

IN THE SUPREME COURT OF MISSISSIPPI
No. 35163

BETTY BENOIT, Appellant, v. STATE of MISSISSIPPI

APPEARANCE and COST BOND ON APPEAL
to UNITED STATES SUPREME COURT

WHEREAS, on the 25th day of January, 1943, an Opinion was filed by this Court in the above captioned and numbered case, affirming the judgment and sentence of the Circuit Court of Marion County of June 23, 1942, which judgment was adverse to the appellant;

WHEREAS, appellant, Betty Benoit, being dissatisfied with said judgment, desires and intends to file an appeal in said matter to the Supreme Court of the United States;

WHEREAS, it is estimated that the costs of Circuit Court, Supreme Court of Mississippi and Supreme Court of the United States will not exceed the sum of \$250.00;

WHEREAS, by Order of Court a bond in the amount of (\$1000.00) Dollars was fixed by the Court to act as an appearance appeal bond and cost bond on appeal to the United States Supreme Court, to be executed and filed by the appellant;

NOW, Therefore, Know All Men by These Presents. That we, Betty Benoit, as principal, and the undersigned as sureties, do hereby acknowledge ourselves, our heirs, our executors and successors firmly bound unto the State of Mississippi in the sum of (\$1000.00) Dollars. The condition of the bond is such that if the appellant, Betty Benoit, shall prosecute her appeal with effect to the United States Supreme Court and appear before this Court upon the return of the mandate from the United States Supreme Court and

abide by the judgment to be entered and pay all costs incurred in the United States Supreme Court by reason of said appeal that such bond and obligation here incurred shall become null and void; however, if the said Betty Benoit shall not prosecute her appeal with effect and if she fails to appear before this Court and abide by the judgment entered against her the said bond and obligation shall remain in full force and effect.

WITNESS our hands and the seal of the surety corporation on this the 2nd day of Feb. 1943.

(Sgd) Betty Benoit

BETTY BENOIT, Principal

NATIONAL SURETY CORPORATION

By (Sgd) F. Wallace

Its Attorney in Fact As Surety

(SEAL)

(Sgd) G. C. Clark

Witness

(Sgd) C. A. Rawls

Witness

Approved and ordered filed on
this the 2nd day of Feb. 1943

(Sgd) Sydney Smith

Chief Justice of the Supreme

Court of Mississippi

[Same Caption Omitted in Printing]

Statement of Points to Be Relied Upon

Comes now appellant in the above-entitled cause and states that the points upon which he intends to rely in this Court in this cause as follows:

Point 1. The Supreme Court of the United States should hold that the statute in question is unconstitutional on its face because, by its terms, it abridges appellant's rights of freedom of press and of speech contrary to the First and Fourteenth Amendments to the United States Constitution.

Point 2. The Supreme Court of the United States should hold that as construed and applied to the particular facts and circumstances of the case the statute in question is unconstitutional because as so construed and applied it abridges appellant's rights of freedom to worship ALMIGHTY GOD JEHOVAH, freedom of press and of speech contrary to the First and Fourteenth Amendments to the United States Constitution.

Point 3. The Supreme Court of the United States should hold that on its face and as construed and applied, the statute violates the due process and equal protection clauses of the Fourteenth Amendment to the United States Constitution because it is vague, indefinite, uncertain, too general, fails to furnish a sufficiently ascertainable standard of guilt, and enables the court and jury to speculate, and amounts to a dragnet so as to deprive appellants of liberty without equal protection and due process of law.

Point 4. The Supreme Court of the United States should hold that there was no evidence that there existed a clear and present danger that the evils prohibited by the statute would result from the literature distributed by appellant or the words and conduct of appellant.

Point 5. The Supreme Court of the United States should hold that a general verdict will not support a conviction where the undisputed evidence shows that either ground of

conviction violates the constitutional rights of appellant or where one of the provisions of the statute sustaining the conviction is unconstitutional.

G. C. CLARK
HAYDEN C. COVINGTON
Attorneys for Appellant

[Same Caption Omitted in Printing]

Praecepice for Transcript of the Record

TO HONORABLE TOM Q. ELLIS, Clerk of the Supreme Court of Mississippi:

You will please prepare a printed copy of the entire record filed in the above entitled and numbered cause in the Circuit Court and the Supreme Court of Mississippi, for the purpose of filing an appeal with the Clerk of the United States Supreme Court. The record should contain the following documents:

- (1) All proceedings had in the Circuit Court and Supreme Court of Mississippi, including all opinions filed herein.
- (2) Petition for allowance of appeal to the Supreme Court of the United States, Statement, Assignments of Error and Prayer for Reversal.
- (3) Jurisdictional statement.
- (4) Order allowing appeal to the Supreme Court of the United States.
- (5) Statement of points to be relied upon in the Supreme Court of the United States.
- (6) Citation, signed by the Chief Justice of the Supreme Court of Mississippi.
- (7) Bond for costs on appeal to the Supreme Court of the United States.
- (8) Notice calling Appellee's attention to paragraph 3 of Rule 12 of Rules of the Supreme Court of the United States.

(9) Copy of stipulation waiving right to file papers in opposition to jurisdiction of court.

(10) This Praecept for transcript of the record.
Dated, March . . , 1943.

G. C. CLARK
HAYDEN C. COVINGTON
Attorneys for Appellant

[Same Caption Omitted in Printing]

**Notice Calling Appellee's Attention to
Paragraph 3 of Rule 12 of Rules of the
Supreme Court of the United States**

Sirs:

You will take notice that paragraph 3 of Rule 12 of the Revised Rules of the Supreme Court of the United States provides that "the appellee may file with the clerk of the court possessed of the record" within 15 days after service of the jurisdictional statement and other papers on appeal, a typewritten statement disclosing any matter or ground making against the jurisdiction of the Supreme Court of the United States asserted by the appellant, which rule is hereby called to your attention as is required by the Rules of the Supreme Court of the United States.

Dated, March , 1943.

G. C. CLARK
HAYDEN C. COVINGTON
Attorneys for Appellant

To: Greek L. Rice
Attorney General and
George H. Ethridge
Ass't Attorney General
Jackson, Mississippi

[Same Caption Omitted in Printing]

Acknowledgment of Service

On behalf of the Appellee in the above entitled cause, service is hereby acknowledged of a printed copy of the record containing copies of the following documents, to-wit:

1. All proceedings had in the Circuit Court and Supreme Court of Mississippi, including all opinions filed herein.
2. Petition for allowance of appeal to the Supreme Court of the United States, Statement, Assignments of Error and Prayer for Reversal.
3. Jurisdictional statement.
4. Order allowing appeal to the Supreme Court of the United States.
5. Statement of points to be relied upon in the Supreme Court of the United States.
6. Praecept for transcript of the record.
7. Citation, signed by the Chief Justice of the Supreme Court of Mississippi.
8. Bond for costs on appeal to the Supreme Court of the United States.
9. Notice calling Appellee's attention to paragraph 3 of Rule 1² of Rules of the Supreme Court of the United States.
10. Copy of stipulation waiving right to file papers in opposition to jurisdiction of court.

Dated, March , 1943.

GEORGE H. ETHRIDGE

*Assistant Attorney General
Counsel for Appellee*

Stipulation

It is hereby stipulated that the papers hereinbefore printed comprise true and correct copies of the record from the Circuit Court and Supreme Court of the State of Mississippi and that printing of all exhibits is omitted and said exhibits shall be submitted in original form to the Supreme Court of the United States.

Dated, March , 1943.

GEORGE H. ETHRIDGE
Assistant Attorney General
Counsel for Appellee

HAYDEN C. COVINGTON
117 Adams St.
Brooklyn, New York
Counsel for Appellant

Clerk's Certificate

STATE OF MISSISSIPPI, COUNTY OF HINDS, ss

I, Tom Q. Ellis, Clerk of the Supreme Court of Mississippi, do hereby certify that the next foregoing pages contain a full, true and complete printed copy of all the papers, pleadings, proceedings proceedings requested by appellant's praecipe for the record on appeal to the United States Supreme Court in the case entitled Betty Ben v. State of Mississippi, and Numbered 35163 on the docket of the Supreme Court of Mississippi as the same appear on file in and of record in my office and in our said court.

Given under my hand and seal of office this the 1st day of March, 1943.

TOM Q. ELLIS, Clerk
Supreme Court of Mississippi
[SEAL]